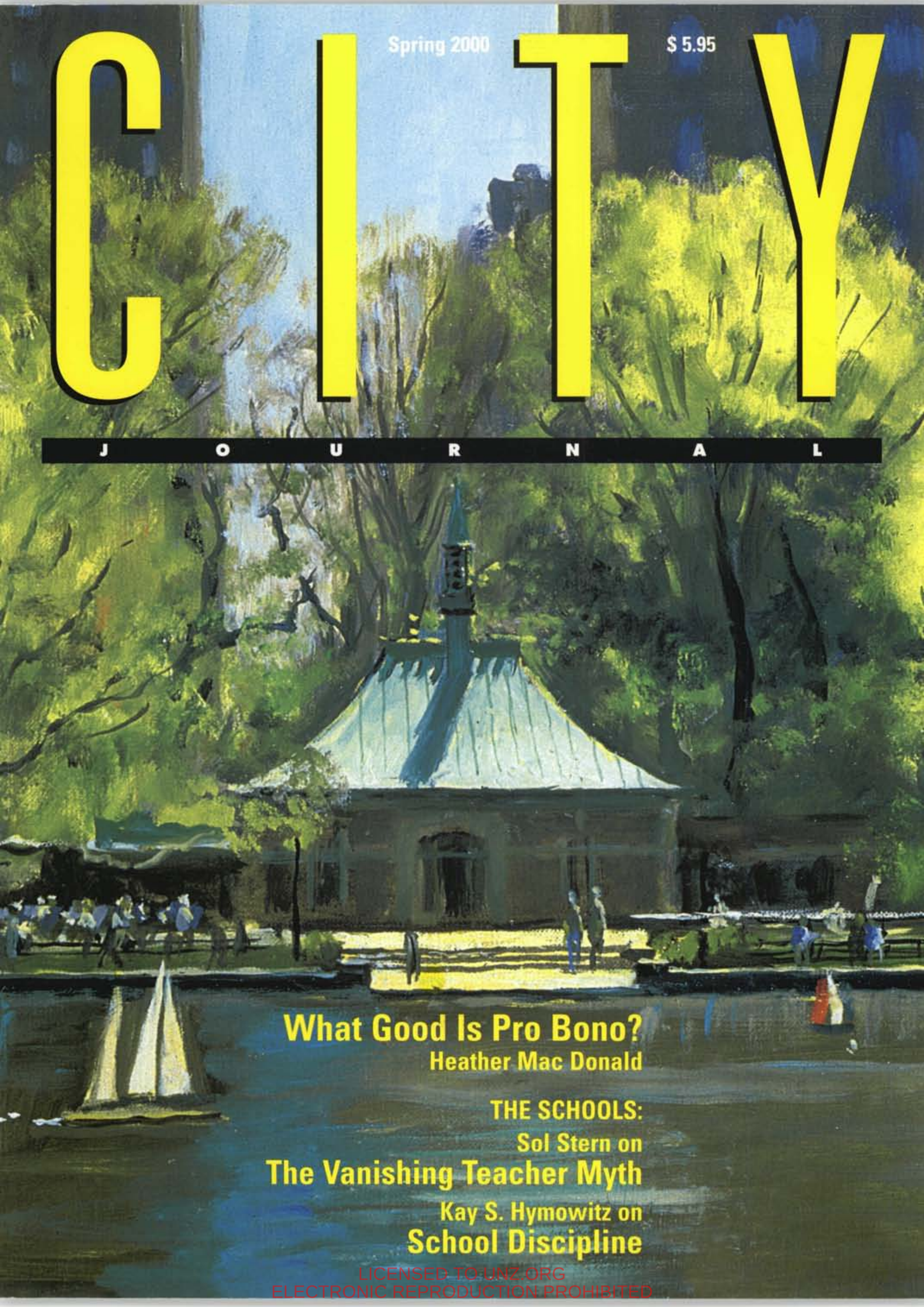

CITY JOURNAL

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The Vanishing Teacher Myth

Kay S. Hymowitz on

School Discipline

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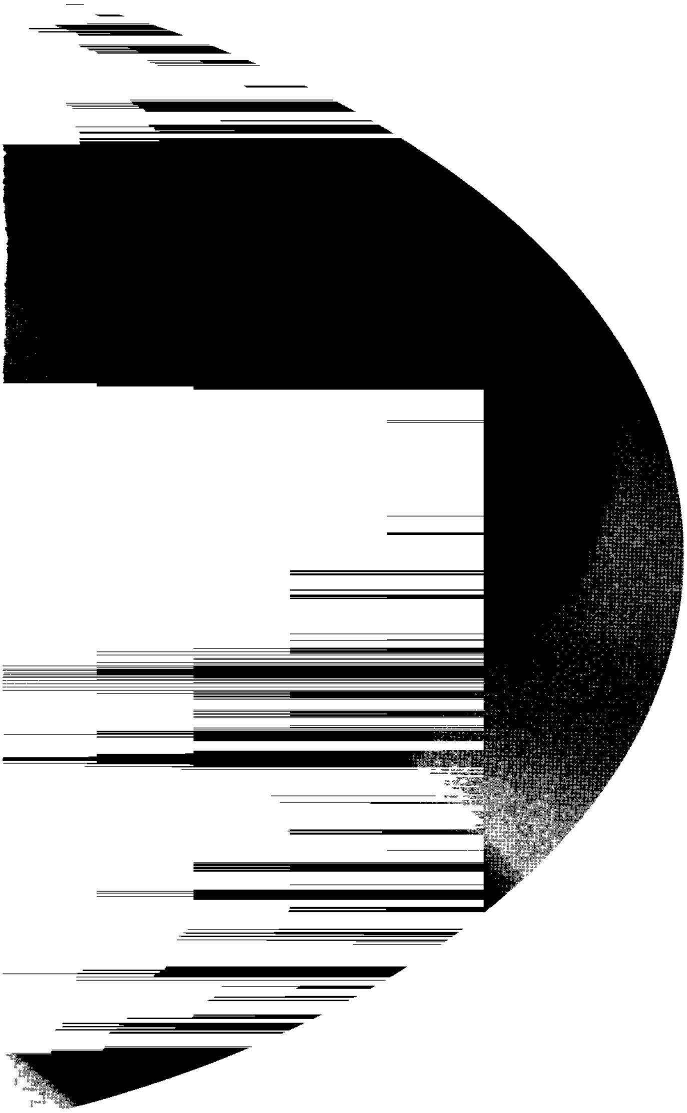

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In Prospect

Pro bono publico: it's a phrase that makes you stand up straight and puff out your chest, its alliteration and internal rhymes making it ring like poetry, its noble republican sentiment calling up images of togas, laurel wreaths, and sun-splashed columns. So it's a little disillusioning to learn from Heather Mac Donald's "What Good Is Pro Bono?" on page 14 that this long, honorable tradition of the legal profession has largely turned into a racket. Pro bono used to mean that lawyers would provide unpaid services to promote the smooth administration of justice and to make sure that the poor had access to the courts and to justice. Today, instead of advancing some broadly accepted vision of the public good, pro bono lawyering has become a mechanism by which million-dollar attorneys promote their own left-wing charitable causes and make the public foot the bill. For pro bono practice isn't even free anymore: the lawyers who do it all too often end up sticking the taxpayers with the costs.

Our story's account of this transformation of pro bono, and of the legal profession along with it, is the latest in a continuing *City Journal* series in which Mac Donald has traced how the cultural revolution of the 1960s seeped into every capillary of America's elite institutions, from the law schools and great charitable foundations to the schools of public health and even the *New York Times*'s annual neediest cases appeal. All told, it is an extraordinary chronicle of how the ideas of an elite few—ideas about the causes of poverty, about personal responsibility, about the role of government, about human nature and human dignity—flowed almost instantaneously out of the ivory tower into the whole of American society because they had so quickly and completely won over the agencies that shape and transmit culture. When Wall Street lawyers start putting into practice theories that a few years earlier existed only in the minds of a few wild-eyed academics, the real-world consequences are bound to be sweeping.

How sweeping? Kay S. Hymowitz's "Who Killed School Discipline?" on page 34 gives one answer to that question. Pro bono litigation on behalf of pupils challenging the disciplinary actions of teachers and principals went far toward subverting the authority—including the moral authority—of school officials. The result: disorderly schools, bristling with lawyer-devised bureaucratic procedures and pop-psychology behavior-control gimmicks that fail to keep students under control and, worse, fail to create the community of value that once not only kept schools orderly but also made them molders of citizens.

Lawyers produced these results doubtless with good intentions, believing that they were sparking a new era of freedom. But with their narrow focus on abstract rights, it never occurred to them that human communities operate according to certain realities of human nature. They never dreamed that they could be damaging a layer of human value even deeper than constitutional rights. In this, they were proceeding as so many statesmen and social commentators proceed: looking only at political or legal structures without considering how they enhance or deform the raw human material. For social commentators, it takes great insight not to fall into this error, as Theodore Dalrymple explains in "How to Read a Society" on page 96. What makes a pair of nineteenth-century French aristocratic writers, Astolphe de Custine and Alexis de Tocqueville, such lastingly great social analysts, Dalrymple shows, is their continuous attentiveness to the interplay of political regimes, human nature, and individual consciousness—an attentiveness modern commentators and statesmen would profit by adopting.

The transformation of pro bono lawyering that led to these social changes began with changes in the culture. Two further stories in this issue investigate what is happening on the cultural frontiers today. It's a mixed—and therefore hopeful—picture. "Bring Back Sportsmanship" (page 44) by Brian C. Anderson and Peter Reinharz shows how the destructive forces of the sixties' cultural revolution have debased professional and schoolboy sports, often making them celebrations of thuggery instead of sportsmanship both on and off the field. But as Stefan Kanfer explains in "Good Literature Lives!" on page 80, authors Patrick O'Brian and J.K Rowling, with their beautiful prose and elevated moral vision, have kept literature very much alive, and millions of readers have responded enthusiastically. So the material for cultural renewal—pro bono publico—is at hand. ▪

Soundings

Racial Profiling at the *Times*

There's something ugly in the newspaper of record's coverage of the Dorismond shooting.

There's nothing like a police shooting to expose the *New York Times*'s racialist worldview. On March 16, an undercover New York City detective accidentally killed an off-duty security guard in a street scuffle—tragically, the second such police shooting since an Albany jury last month exonerated the four officers who killed Amadou Diallo last year. The facts in the new shooting are in hot dispute. But the *Times* has already delivered itself of its most important judgment in the case: race, it announced two days after the shooting, did not play a role in the incident. How it reached that conclusion is a remarkable revelation of the *Times*'s anti-white bias.

Security guard Patrick Dorismond was the victim of a buy-and-bust drug operation gone awry. Several undercover officers approached Dorismond in a drug-infested area of midtown to solicit "krill"—crack cocaine; Dorismond, insulted, became angry, and a scuffle broke out that ended with Detective Anthony Vasquez's gun discharging into the security guard's chest. The police say that Dorismond initiated the fight and lunged for Vasquez's gun after the officers had identified themselves; Dorismond's supporters claim the police never identified themselves and punched Dorismond first.

On these disputed facts, the *Times* informed its readers on March 18 that "there were no indications that race had played a role [in the shooting], as was alleged in the death of Mr. Diallo." How did it reach that conclusion? Solely on the basis of the officers' skin color. As the *Times* helpfully explains, whereas the Diallo officers were white, "the three officers involved in the confrontation with [Dorismond] are Hispanic." End of story.

Let's unpack this reasoning. What was the evidence that race "played a role" in the Diallo shooting? Nothing, besides the Diallo officers' race. No one ever alleged that the four white officers had ever made racist statements; no one showed that the officers ignored white suspects to concentrate maliciously on blacks. Nevertheless, the *Times* takes for granted that when something bad happens between white officers and black suspects, race is the catalyst.

What was the evidence that race did *not* play a role in the Dorismond shooting? Nothing, besides the officers' Hispanic ethnicity. The *Times* presumes that when "officers of color" approach a black suspect, race could not, by definition, be a factor.

Now there are two ways in which race could play a role in a police-civilian encounter: racial profiling—a loaded term for an inevitable law-enforcement practice—or something far worse. Like it or not, when the three drug detectives approached Dorismond and his friends, they undoubtedly used their street experience that drug dealers around New York's Port Authority Bus Terminal are overwhelmingly black. When the *Times* says that race played no role in the Dorismond incident, does it really mean to suggest that only white officers take into account known racial correlations to various crimes in making stops? The charge is ludicrous, as even a *Times Magazine* article on racial profiling last year demonstrated. Black officers and police chiefs quoted in the piece freely acknowledged using race as one factor in street stops.

So when the *Times* singles out the Diallo incident for racial overtones, it must intend something far uglier than racial profiling. When the *Times* talks about the "role" of race in white officer/black suspect encounters, it must mean that a hostile, even murderous, racial animus fuels white officers.

New York City is currently at a boiling point over police-civilian relations, even though the NYPD's use of lethal force is at its lowest point in over 25 years. In 1990, one year into the failed mayoral administration of David Dinkins, there were two and a half times more fatal shootings per officer than today under Mayor Rudolph Giuliani; the absolute number of police shootings—41—was a whopping 73 percent higher than the 11 fatal shootings last year, even as the police ranks have greatly expanded.

The scurrilous Al Sharpton usually gets credit for stoking racial tensions in the city. But the *New York Times* deserves equal billing. With its poisonous fictions regarding race and the police, with its knee-jerk assumptions about white racism, the *Times* is on the forefront of racial divisiveness in New York and beyond. —*Heather Mac Donald*

Taxopolis

Though it sugarcoats its conclusions, a new study shows Gotham is still the most heavily taxed city in the nation.

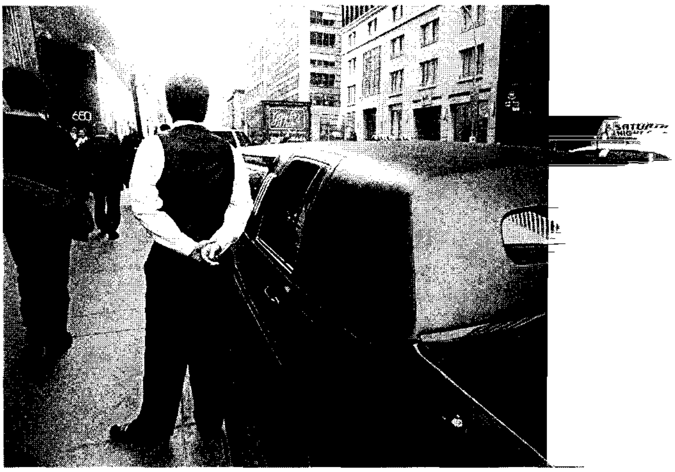
In late February, New York City's Independent Budget Office released *Taxing Metropolis: Tax Effort and Tax Capacity in Large U.S. Cities*, a study that shows Gotham is way overtaxed compared with other American cities. Absolutely right, as D. Andrew Austin and I argued in these pages—and, we concluded, it has cost New York 1 million jobs (see "New York's Million Missing Jobs," Autumn 1998).

The method IBO used for the study is perfectly sound and scrupulous, though it makes New York taxes seem slightly less outlandish than our study did. The biggest difference in method is that IBO focuses on taxes as a percentage of income, while we zeroed in on per-capita taxes. Using IBO's approach, New York's taxes are 79 percent higher than in other large cities, though only 17 percent higher than in Philadelphia, the next most heavily taxed city; using our approach, New York taxes are 352 percent above those in other big cities, and 240 percent above Philadelphia's.

There are two problems with IBO's study. First is what it doesn't allow you to see. The assumption underlying IBO's percentage-of-income approach is that New York is an expensive city—costs are high, salaries are high, so taxes will be high, too. The effect is to assume what is in question—that New York's high taxes are appropriate—and to minimize the magnitude of the difference from lower-tax cities.

The second problem might seem inconsequential, but it's not. The IBO study frequently uses the euphemistic term "tax effort"—as in New York City's tax effort for 1997—instead of "tax burden." The language of tax effort subtly directs one's attention to the city struggling to provide services with finite means and away from the hard-pressed taxpayer who pays for it all—an all-too-typical rhetorical trick in a city that for decades has viewed taxpayers as there only to be sheared.

These problems aside, IBO's report dramatically underscores, whether its authors wanted it to or not, Gotham's need for deep, across-the-board tax cuts if it wants to stay competitive in the twenty-first century. —*Steven G. Craig*



BOBBY NEAL ADAMS (4)

The Wrong Prescription for Upstate

Mrs. Clinton wants to heal the region's ailing economy with big government—exactly what made it sick in the first place.

During her precampaign "listening tour" through upstate New York, Senate candidate Hillary Clinton made a big discovery, only too familiar to the area's residents: the upstate economy is a disaster.

Though it has recently begun to add jobs at a rate slightly faster than the national average, upstate missed out on most of the nineties boom, expanding employment only 1.2 percent from 1990 through the first half of 1999, even as the rest of the nation robustly created 15 percent more jobs over the same period (see "Down-and-Out Upstate," Autumn 1999). What's even more disturbing is that the area continues to hemorrhage population, especially educated young people, who depart for rosier economic opportunities elsewhere.

What is Mrs. Clinton's prescription for upstate's economic ills? Just one day after officially launching her campaign in early February, she flew to blighted Buffalo to announce it: fostered by federal subsidies, high tech should blossom there and heal the region. Among her specific proposals broadband development grants to extend high-speed Internet connections in rural areas; government assistance to small and medium-size

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businesses to help them acquire new technology; and making sure that the feds no longer give New York the short end of the stick by collecting more in taxes from state residents than Washington returns to the Empire State.

In short, Mrs. Clinton promises a big-government solution for a region whose problems big government caused. The high taxes and intrusive regulations of New York's massive welfare state were what drove businesses out of upstate in search of low-tax, less-regulated locales. Mrs. Clinton doesn't say much about this, because the special-interest groups sponsoring her candidacy—the teachers' unions and other municipal unions, the trial lawyers, the social service providers—all are major beneficiaries of that oversize welfare system.

To make upstate economically vibrant would require following the lead of states like Michigan and Wisconsin, which have reined in spending, deeply slashed taxes, and pared away regulations, sparking a decade-long economic boom in rust-belt regions many thought condemned to permanent decline. A low-tax upstate, freed from unnecessary regulations, would likewise encourage investment and begin to make the area attractive again to the educated young. Upstate might become a high-tech Mecca, as Mrs. Clinton hopes—or maybe something completely unimagined: it's misguided for politicians arrogantly to decide ahead of time what an unleashed market might create.

If Mrs. Clinton really wanted to help upstate, she'd campaign hard to embarrass New York State politicians into emulating their midwestern counterparts and making the area much more business-friendly. Until then, she's like a doctor who visits you in the hospital and says, "You're sick and you need to get better"—and prescribes more of what made you sick in the first place.

—*William J. Stern*

The Right Way to Pick a Chancellor

The innovative head of Chicago's public schools has some advice for New York City.

As predictably as the flu, New York City's search for a new chancellor for its monster of a school system is back. But is the 1.1 million-student, $10 billion-plus behemoth even governable?

I asked that question to Paul Vallas, the innovative CEO of the Chicago Public Schools since 1995, and his answer was yes—if you follow a few rules.

Rule number one: Hire local. The leader of a large system like New York's has to know the local talent. "An out-of-state person takes six months to learn where to park," says Vallas, who had previously been Chicago's budget director before taking over the schools. "When I came in I knew who were the top educators, the top construction companies, the top law-enforcement officials—I could recruit an army."

And he did. Vallas swept through the Chicago bureaucracy like Patton invading Sicily, replacing people three to four deep in every department and filling a host of vacancies just in his first 100 days. With his people in control, he could make dramatic changes by fiat. "When I wanted to end social promotion, it was done; when I wanted an extended day for kids below grade level, it was implemented—this is *my* bureaucracy." By contrast, an out-of-towner would have spent his first 100 days painstakingly exploring the complexities of the moribund bureaucracy he had inherited. And who'd be his likely guide? The very bureaucrats he should be thinking of replacing.

Rule number two: Hire a manager, not an educator. Chicago's $3.3 billion system needs a leader capable of organizing elite teams of experienced professionals, inspiring loyalty, and delegating authority. That goes double for New York.

Rule number three: Give individual schools a good deal of power but hang on to the reins of accountability. In Chicago, each of the 591 schools has a council that picks its own principal and has control over a discretionary budget. "Some schools might want to expand their summer programs; some may want a full day or half-day; some might want to reduce class size," says Vallas. "We don't tell them how to do it. We tell them what the goals are." The central office dictates minimal standards and fiercely ensures compliance.

Vallas's rules make sense, but his own tenure shows that more is involved. Vallas hasn't just hired, organized, and delegated. With the strong backing of Chicago mayor Richard Daley Jr., he has brought to the city's schools a revolutionary educational vision modeled on a combination of Aristotelian and parochial-school values. He has mandated character education, encouraged partnership with religious institutions to supplement school counseling, and made community service a requirement for graduation. His response when I asked if a possible court challenge to these policies worried him testifies to his dissimilarity from your usual jargon-spewing bureaucrat-in-chief: "We'll go to the wall on this."

Since Vallas took office, discipline problems have eased, and, though reading and math scores remain abysmally low, they're significantly better than before he took command. If they continue to improve, it will lend credence to the idea that a gifted and courageous boss can make a behemoth of a system go where he wants it to go, even without structural change. *—Kay S. Hymowitz*

Merit Pay for CUNY's Profs

Here's how CUNY can spruce up its mediocre faculty.

CUNY's culture of mandated mediocrity is starting to crumble. The breakup must accelerate.

CUNY's trustees recently abolished the one-size-fits-all pay scale for college presidents; they now need to liberate faculty pay from the same enforced egalitarianism. Under the faculty union contract, a lousy remedial-reading teacher at Hostos Community College receives the same compensation as an inspiring physics professor at City College, and dime-a-dozen English teachers get the same pay as scarce and pricey accounting profs. In part because of this forced redistribution of salary dollars from the competent to the incompetent, CUNY faculty pay is inadequate to compete on the academic market. The average starting salary nationally for newly minted economics Ph.D.s, for example, is about $73,000; CUNY's mandated starting salary is $57,000, guaranteeing that most other colleges will outbid it for the best teaching and research talent. CUNY's top end is just as inflexible: the pay scale tops out at $84,000, several times below what the most valued professors command elsewhere.

Most other public university systems allow faculty salaries to vary both between and within campuses and departments. They care enough about quality to give their presidents leeway in bargaining for faculty, even against private universities: UC Berkeley just lured away a Princeton economics star.

In a wan bow to meritocracy, CUNY created a handful of university-wide "distinguished professorships" 20 years ago and a slight possibility for merit pay. Neither measure is sufficient to bring in the best new blood from outside the university.

Now CUNY chancellor Matthew Goldstein seeks 180 new faculty positions, a proper antidote to CUNY's devastating loss of full-time faculty since 1985. To maximize excellence, Goldstein needs to strip his request of one perverse provision. Simultaneous with the 180 new faculty positions, Goldstein also seeks 120 new "student service personnel." The notion that for every three new faculty members, CUNY needs two additional counselors and tutors for students casts doubt on the chancellor's claim to be bringing in more qualified students and perpetuates the notion of education as therapy.

Chancellor Goldstein should instead seek more full-time faculty positions with the money slated for "student service personnel." In exchange for this boon to the faculty union's rolls, he must demand that the union give up its insistence on uniform faculty pay scales and allow CUNY to enter the market for excellence. *—Heather Mac Donald*

Benetton's Evil Ads I: Righteous Consumerism

A new ad campaign celebrating convicted murderers is the ultimate in radical chic . . .

About 50 yards from the entrance to the prison in which I work is a large billboard, displaying the picture of a black man, his head inclined gently, almost romantically, against a wall. In large letters, the advertisement proclaims: SENTENCED TO DEATH. It is an advertisement for Benetton knitwear.

The man is Jerome Mallet, sentenced for killing a Missouri highway patrolman 15 years ago. According to the ad, Mallet "was looking for a perfect world back then": in a perfect world, of course, there would be no Missouri State Highway Patrol or police of any description.

What are the murderers released from my prison—Britain having abolished the death penalty—to make of this advertisement? That they are heroes, worthy of commemoration on billboards?

The mastermind of Benetton's advertising campaigns, Oliviero Toscani, says that "today's culture is images, and I don't draw any distinction between them." The first half of his statement approximates to a lamentable truth; the second half is a barefaced lie. Of course Toscani draws distinctions between images: he could hardly do his job if he did not.

In choosing pictures of murderers rather than of their victims, he appeals to the tender conscience of the liberal, whose ethical code consists simply of the categorical imperative to sympathize with those whom others abominate. The murderer-as-victim—more sinned against (by a heartless society) than sinner—is the liberal's last word in ethical chic. It was a masterstroke of Toscani's to choose cases in which the verdict was not in the least doubtful. "We are all equal," said Toscani, declaring Benetton's independence from moral convention—the mugged and the mugger, the raped and the rapist, the murdered and the murderer. "We can wear whatever we want, whatever colors we want."

Toscani added that advertising "is a far better medium for discussing [the death penalty] than journalism," as if his radical-chic sentimentality were a discussion, courageously making a profound moral point. That's the point of his ads, of course: to convince the susceptible that wearing one brand of knitwear instead of another is part of a moral crusade—an expression of compassion rather than of a personal whim that contributes to the profits of a large corporation. Henceforth goodness is to be the easy purchase of the right brands rather than the strenuous cultivation of virtue.

In Benetton, Jacques Derrida meets Citizen Kane: a mixture of pretension, nihilism, and utter unscrupulousness. —*Theodore Dalrymple*

Benetton's Evil Ads II: Sears Strikes Back

. . . but one company has had enough.

Give Sears credit for bucking the PC orthodoxy prevalent in corporate America these days. It terminated an exclusive contract to sell a special line of Benetton clothes after the uproar over the Italian company's repulsive "We, On Death Row" ads that romanticize convicted killers.

The ads began running in January with a huge supplement to Tina Brown's *Talk* magazine, featuring fan-magazine-style profiles of 26 murderers awaiting execution across the U.S. Jesse Compton's profile is typical. A full-page headshot accompanies an interview. "What did you want to be when you grew up?" he is asked. "A lumberjack," he replies. The questioner follows up: "What does it feel like when you're cutting through a tree?" Left unasked, however, is what it feels like to burn a three-year-old girl with a propane torch or puncture her stomach with a fork—subjects that Compton became an authority on when he and his girlfriend tortured her daughter to death.

Benetton claimed that its ads were intended to "stimulate a conversation about" (i.e., erode support for) capital punishment by "bringing a human face to the individuals on death row." None of the ads, though, mentioned the victims or the details of their slayings, suggesting that the lives the murderers took were less important than their own. Benetton expressly forbade its "subjects" from discussing their crimes or victims—even when some tried to show remorse—because it did not want to "distract readers."

Benetton has a long history of shock ads that push its left-wing politics. An earlier effort featured a priest and nun locked in a passionate kiss. Another showed a retouched photo of President Reagan disfigured with AIDS lesions—Benetton's way of criticizing his administration's AIDS record.

At least in the U.S., though, Benetton's politicized publicity has coincided with the company's precipitous decline: all but 200 of the 800 stores it operated here in the 1980s have closed. The steady erosion of its U.S. market share led the company to enter into its arrangement with old-fashioned Sears—the kind of place where the fashion firm's chic executives and upscale customers normally wouldn't be caught dead.

Benetton executives doubtless anticipated that the latest ads would spark a publicity-generating backlash, especially in a country where 70 percent of the adult population supports the death penalty. But Sears's decision is something that Benetton probably didn't foresee, and it may wind up reverberating in the marketplace, scaring off potential Benetton partners, franchisees, and consumers, at least on these shores.

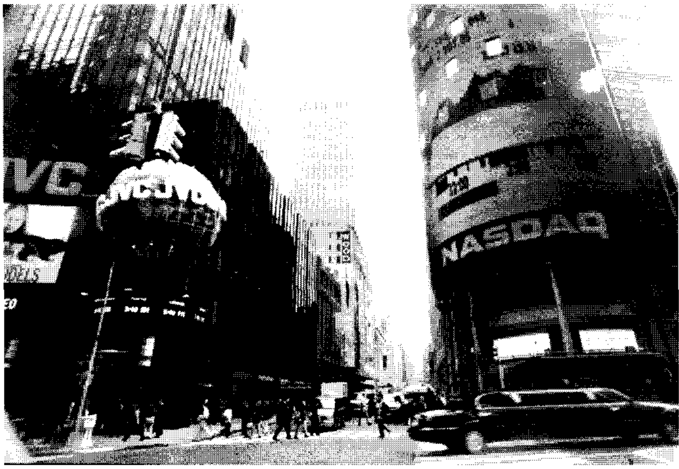
—Joe Diamond and Dennis Saffran

The Post Office Stamps Out the 1980s

A new series of stamps commemorating the 1980s celebrates the trivial.

"America's Space Program and the Postal Service have a lot in common," observes U.S. Post Office executive Vicki Brennan. The occasion for her comment: the issuance of 15 commemorative stamps celebrating the 1980s—the fruits of a nationwide poll. If what Brennan says is true, though, the astronauts would be well advised to watch out for leaky suits and faulty O-rings should they ever get into orbit.

For among the subjects the Postal Service considered worthy of immortality were: Video Games, Figure Skating, Compact Discs, Cable TV, Cabbage Patch Kids, "E.T., The Extra-Terrestrial," and that contradiction in terms, Hip Hop Culture. A perfunctory nod went to the Fall of the Berlin Wall and the Vietnam Veterans Memorial, but more than half of the 15 stamps celebrated entertainment. Quite a comedown from the days when U.S. postage stamps displayed such subjects as Thomas Edison, the ratification of the Constitution, and the opening of the Panama Canal.



Moreover, in times gone by, philatelists could look on their tiny perforated rectangles as works of art, meticulously engraved and subtly tinted, worth examining with a magnifying glass year after year. The current products are as blatant and unattractive as a four-color laxative ad in a subway car. (This, of course, should come as no surprise to anyone who has examined the New Money: the Treasury Department's latest $20 bill displays a picture of Andrew Jackson that suggests Henry Fonda on a bad wig day.)

For the record, the 1980s saw a lot more than the stuff displayed in *Entertainment Weekly*. Just for starters, there was the Return of the Iran Hostages; the U.S. victory in the Cold War, signaled by the collapse of the U.S.S.R.; the development of the "miracle drug" Interferon that would alleviate the suffering of millions; the restructuring of the American economy, causing the Dow to top 1,800 for the first time; the production of the first ceramic superconductor; and the appointment of the first African-American (Colin Powell) as chairman of the Joint Chiefs of Staff. When it comes time to celebrate the first decade of the new millennium, how about a commemorative acknowledging the federal government's new Help Stamp Out History Project?

—Stefan Kanfer

Soundings

Why Brits Love Iron Mike

Throngs of English fans admire the boxer's thuggish behavior as authentically black.

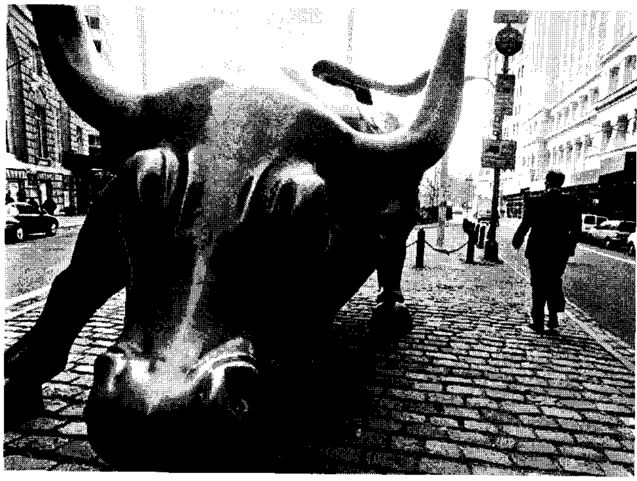
The question of whether to allow boxer Mike Tyson into Britain posed an excruciating dilemma for the nation's politically correct. Should Britain welcome him as a black hero or exclude him because he is a convicted rapist? Was it more important to express one's sympathy for a downtrodden minority or a downtrodden gender?

British Home Secretary Jack Straw, an important figure in a Labour government that prides itself on its fastidiously up-to-date ethical standards, ultimately had little doubt. Conceding that under normal circumstances Britain would not have allowed a convicted rapist like Tyson to enter the country, officials would make an exception in his case because a lot of small businesses in Manchester, where he was to fight, would lose money if the sold-out event were called off.

So Iron Mike entered Britain and soon garnered much attention. In Brixton, a predominantly West Indian London neighborhood, admirers mobbed him. With police help, he escaped and then made a speech from the balcony of the town hall to the adoring throng below.

Not everyone enjoyed his visit, however. The head of the Brixton borough council voiced his disapproval, and many commentators expressed disgust at the sight of a thuggish rapist treated as a hero. They sensed that this was an unhappy cultural augury.

What did it signal? A radio interviewer asked the sportswriter of a black newspaper why Tyson had drawn far bigger crowds than did Lennox Lewis, a black boxer living in England, even after Lewis had returned home with the world title. The writer replied that people liked Tyson because he was "a bad boy, a street boy," in contrast to Lewis. Lewis never has had trouble with the police, still lives at home with his mother—whom he reportedly reveres—and generally conducts himself in a decent, civilized, and gentlemanly manner. He is a true sportsman (see "Bring Back Sportsmanship," page 44)—and therefore, the writer implied, a traitor to his race.



Besides, the writer said, the crowd of Tyson's admirers didn't truly believe he was responsible for his crime, despite his conviction and his own admissions. Instead, they identified with his flawed nature—as if the flaws in question were mildly amusing foibles of no moral import. To rape is human, apparently, to forgive divine.

Tyson defiantly said that no one—certainly not the borough council—could tell him anything about how "the brothers" felt. Not surprisingly, perhaps, he omitted to mention the sisters' feelings. It was difficult to escape the conclusion that the crowds admired Tyson not despite but because of his vile conduct and criminality. Evil, be thou my good.

—Theodore Dalrymple

Cities Can Fight Sleaze

Thanks to a new Supreme Court ruling, cities and towns can now control the sex industry more easily.

The Supreme Court's recent decision allowing communities to ban nude dancing is good news for cities attempting to control a range of sexually related quality-of-life blights.

For 20 years, judges—seemingly attempting to reconcile their common sense with their desire not to appear "unenlightened"—have turned the law regarding regulation of adult material in public places into a convoluted, contradictory mess. Justice Sandra Day O'Connor's opinion upholding Erie, Pennsylvania's G-string and pastie requirements for live dance performances may signal an end to the confusion—and a more sympathetic attitude toward community concerns.

Most notably, O'Connor lays to rest the mistaken presumption—uncritically accepted by many judges, lawyers, and policymakers—that pornography is entitled to the same constitutional protection as political speech. This was of course never the founders' understanding of the First Amendment (see "Free to Strip?" Spring 1999). And, as O'Connor reaffirms more forcefully than the Court has for 24 years, it is still not the law today. The law, she notes, was "eloquently" stated by Justice John Paul Stevens in 1976 when the Court upheld Detroit's adult theater zoning restrictions: "[E]ven though . . . the First Amendment will not tolerate the total suppression of erotic materials . . . society's interest in protecting this type of expression is of a wholly different, and lesser, magnitude than the interest in untrammeled political debate."

Neither the Supreme Court nor any federal appellate court had ever rejected that holding. Yet sophisticated members of the bar seem to have come to regard it as an embarrassment. (Stevens himself, now probably the Court's most liberal justice, dissented from O'Connor's nude-dancing ruling.) New York City lawyers didn't cite it in their briefs defending the Giuliani administration's porn zoning rules. And many court decisions concerning regulation of smut simply do not mention it.

Many of these courts nonetheless approved various restrictions on sex shops based on their "negative secondary effects" (such as increased prostitution) on the surrounding community. But sex shops degrade the quality of life of their neighborhoods by their very existence, regardless of whether they also attract these additional evils. Unwilling to appear illiberal by acknowledging this reality, courts have stretched the concept of "secondary effects" further and further. As one court candidly admitted, they have readily accepted little more than anecdotes as proof of "secondary effects."

Now O'Connor, writing for four members of the Court, has essentially abandoned the need even for anecdotes as proof. Cities attempting to regulate any type of sexual business can now simply rely on the evidence of negative secondary effects of adult theaters accepted by the Court in the Detroit case in 1976 and a similar 1986 case from Washington State, she holds. That is, courts will assume that sleaze has secondary effects rather than putting the onus on communities to demonstrate them, though to zone out the sleaze, municipalities will still have to use the language of secondary effects as a fig leaf. Justices Scalia and Thomas, in a concurring opinion, would go even further—allowing regulation based on "the traditional power of government to foster good morals."

The first test of the reach of the Court's new ruling may well come in one of the disputes now cropping up around the country regarding access to Internet pornography at public libraries. Porn accounts for roughly two-thirds of the Western market for online content. This widespread presence of smut on the Net creates a problem for libraries that want to offer Internet access to the public while providing an appropriate environment for kids.

The use of filtering software to screen out sexually explicit material presents an obvious solution to this problem. And notwithstanding ACLU horror stories about filters blocking information about *breast* cancer or the Mars *expedition*, current filtering technology is more sophisticated than this—based on complex algorithms that take account of the context in which words appear.

The one federal court to consider the issue accepted the ACLU's argument that the use of filtering software by public libraries violates the First Amendment. But it is doubtful that this decision can survive Justice O'Connor's revival of the constitutional understanding that had always relegated porn to the periphery of First Amendment protection. As O'Connor writes, quoting again from Stevens's long-ignored 1976 opinion: "[F]ew of us would march our sons and daughters off to war to preserve the citizen's right to see" sexual activity and genitalia at theaters and dance clubs. Or at the local library.

—Dennis Saffran and David Castro

What Good is Pro Bono?

Elite lawyers make a big show of serving the public good for free, but today their "pro bono" activities fray the social fabric, and taxpayers often end up paying their seven-figure bills, to boot.

Heather Mac Donald

For most of its history, the organized bar in America has been conservatism incarnate, standing foursquare for the sanctity of property rights and the rule of law. Today, there is hardly a cause too left-wing to receive its patronage. Do you advocate expanding entitlements, blocking welfare reform, multiplying the victim classes, or promoting homosexual rights? The bar wants to help, and its most elite members want to help most of all. The whitest-shoe corporate law firms will shower you with funding, provide million-dollar attorneys to sit on your board, and maybe even furnish a $600-an-hour litigator to prosecute your case for free.

The bar has hardly forsworn its intimate relationship with corporate America, of course. But even as it earns billions of dollars a year in fees from its business clients, it pursues a variety of causes that would have astounded the bar's early leaders. It does so in the name of a venerable legal tradition: *pro bono publico* law, or legal service undertaken "for the public good." Pro bono publico law went through a radical transformation in the 1960s; ever since, it has been the vehicle through which elite corporate lawyers could participate in the entitlements revolution, in the litigation revolution that turned lawyers and judges into unelected legislators, and in the cultural revolution that turned America into a nation of victims.

The remaking of pro bono practice mirrors a transformation both of America's legal culture and

Illustrations by Arnold Roth

of elite lawyers' self-understanding. When D.C. circuit judge Laurence Silberman entered Harvard Law School in 1958, he recalls, "practicing law itself was regarded as pro bono. Our professors thought the practice of law was an honorable and valuable calling." Today, Judge Silberman speculates, "lawyers see pro bono services as penance they pay for serving a capitalist system." Now the profession seems to find its ultimate justification in its feats of social engineering.

Formerly, generations of American lawyers understood their pro bono obligation—their obligation to serve the public good without pay—to mean ensuring the fair administration of justice. They helped courts as unpaid arbitrators and mediators and served on bar committees to improve the law. Equally important, they represented politically unpopular clients for free, to ensure justice for all. John Adams defended British soldiers accused of shooting Bostonians after the Battle of Bunker Hill; Algernon Sydney Sullivan, founder of the pathbreaking Wall Street law firm Sullivan & Cromwell, represented Confederate sympathizers in New York. Less notoriously, small-town and country lawyers defended the local poor in criminal and civil courts without fee.

By the late nineteenth century, however, the traditional informal mechanism for providing legal assistance to the poor no longer worked in the big industrial cities, with their teeming immigrant populations. In a small town, everyone—including the poor—knew who the local lawyer was and had access to him. Not so in the big cities, where lawyers were increasingly ensconced in large corporate law firms, serving the super-industrialists and their financiers. An immigrant factory hand would no sooner think of penetrating the downtown Beaux Arts fortresses of these new firms to ask for free legal help than of demanding a table at Delmonico's.

Yet even as lawyers became more specialized and remote, the legal needs of the urban poor were multiplying. Dishonest employers, sharpsters, and loan sharks preyed on the wage-earning multitudes. Contingency-fee lawyers might take on personal-injury claims, but they would have no interest in pursuing a small claim for uncollected wages. Unable to afford lawyers' retainers and court fees, and no longer able to knock on the local lawyer's door to ask for free representation, the urban poor were effectively shut out from justice.

Progressive reformers, fearing class warfare, set about devising new machinery to ensure universal access to the courts. In 1876, a group of prominent German-Americans in New York City created the first formal organization to dispense free legal assistance to the poor: the *Deutsche Rechtsschutz Verein*, or German Legal Aid Society. The organized bar had no part in the creation of this first Legal Aid Society; in fact, it was mildly hostile to a perceived competitor. But as similar societies sprang up across American cities, a lawyer's support for them, whether through money, direct services, or leadership, became an important means of fulfilling his pro bono publico duties.

From its inception, organized legal aid, consistent with Gilded Age philanthropic practice, unapologetically distinguished the deserving from the undeserving poor. The deserving poor were those who worked. The German Legal Aid Society's great early leader, Civil War veteran and elite New York lawyer Arthur von Briesen, declared: "Whoever receives our attention must show that he *has* rendered some service, that he has done some work, and that he is entitled to a corresponding consideration, which being denied we enforce in his behalf." The most frequent claim the early legal aid societies pursued was for uncollected wages. The non-working, long-term poor, whom today we would call the underclass, were outside the Society's ambit. So strong was the stigma against getting something for nothing that the New York Society began charging a fee of ten cents in 1896 for those able to pay, so that they would not feel they were receiving a handout.

Reginald Heber Smith's 1919 *Justice and the Poor* powerfully advanced the legal aid movement, spurring the legal profession to form 20 new legal aid societies in just two years, bringing the total to 61. Carefully chronicling the continuing barriers to the courts faced by the poor, the Boston Brahmin lawyer concluded that America was betraying its commitment to equality before the law every day by pricing the poor out of justice.

What is most striking today in Smith's indictment of America's legal system is what he did not assert: he explicitly denied that the laws themselves discriminated against the poor. The problem lay solely in legal costs and procedural hurdles. Even here, Smith refused a class-warfare analysis. "No dominating group or class has consciously set out to foreclose the rights of the poor," he argued. The inherent conflict in society, Smith believed, was between the honest and the dishonest, not between the rich and the poor.

Like virtually all their peers, early legal aid practitioners took for granted a distinction between courts and legislatures. The courts were for the adjudication of existing rights, they believed; reform of the laws, including *reform to help the poor,* took place in the legislature. They also assumed that legal aid was a private-sector obligation. When the National Lawyers Guild, a dissident group of liberal, radical, and communist attorneys, called for government-supported legal services in the early 1950s, an American Bar Association president responded with a consummate expression of the bar's conservatism. The "entry of the government into the field of providing legal services," he warned, "is too dangerous to be permitted to come about in our free America." Allow Washington to encroach, argued opponents of federally funded legal services, and you're paving the way to socialism.

"Lawyers see pro bono services as penance they pay for serving a capitalist system."

A mere 20 years later, no bar leader would dare voice that opinion in polite company. None would defend the distinction between legislation and adjudication. What happened? The nation's massive culture change during the 1960s brought into currency a radically different philosophy of helping the poor, one that entailed a novel use of the courts. Once converted to the new view, the legal profession became among its most fervent evangelists.

During the War on Poverty, America jettisoned its traditional distinction between the deserving and the undeserving poor. It jettisoned as well traditional social work's effort to change self-destructive habits in the poor. Entitlements to government aid were the War on Poverty's panacea, and antipoverty warriors from the academic and legal left insisted that government help should be automatic and free of moralizing. The only criterion for receiving welfare should be economic need. A poor person who refused to labor had just as much claim to government money and services as someone struggling to work and support a family. After all, argued the War on Poverty's academic architects, American society was so unjust, so stacked against the poor, that judgment was unfair and individual behavior change useless.

The poverty planners quickly enlisted the lawyers into the ranks of their entitlements revolution. Edgar Cahn, a civil rights strategist and speechwriter for Robert Kennedy, joined the new Office of Economic Opportunity, and persuaded this War on Poverty command center to create government-funded, "community-controlled" legal services to litigate the poor's grievances against society. It was a momentous development both for the legal profession and for American society as a whole.

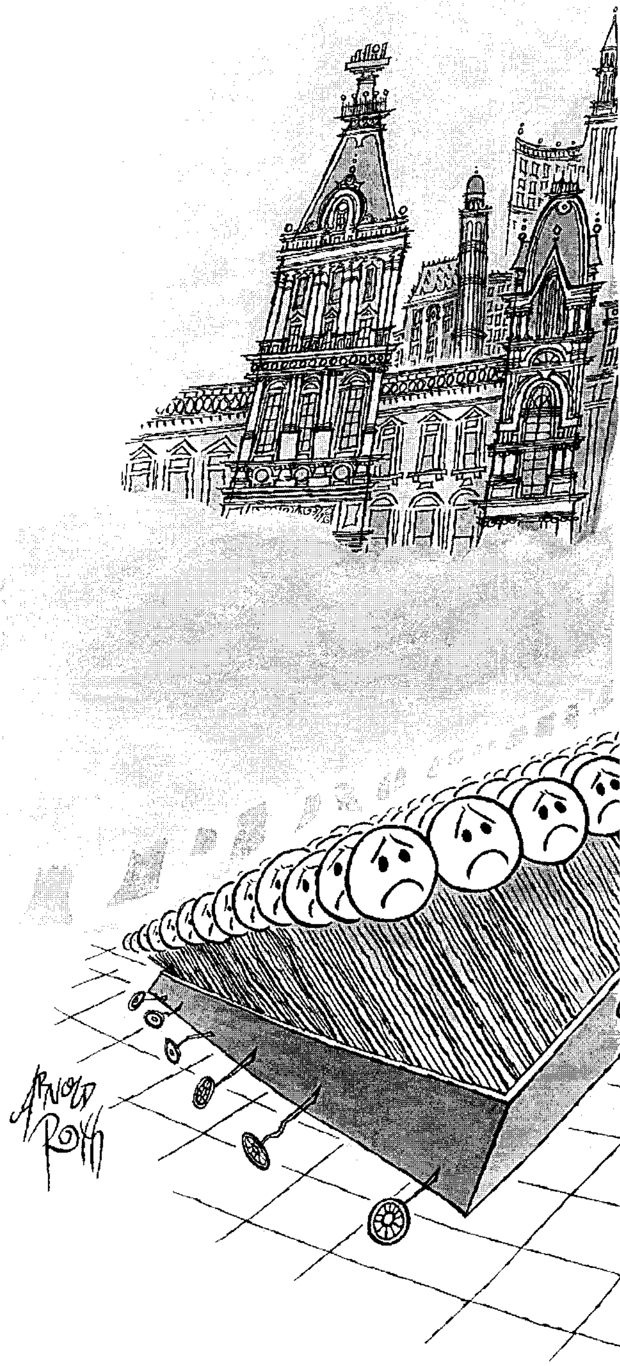
The new, federally funded "legal services" agencies could not have been more different from the traditional voluntary legal aid societies—and over time they inexorably molded traditional legal aid into their exact image. The goal of the legal aid societies had been due-process justice: making sure that the poor have their day in court. The new legal services agencies had something quite different in mind: the redistribution of political and economic power. One legal services attorney described his work as "legal action designed to change the structure of the world in which poor people live."

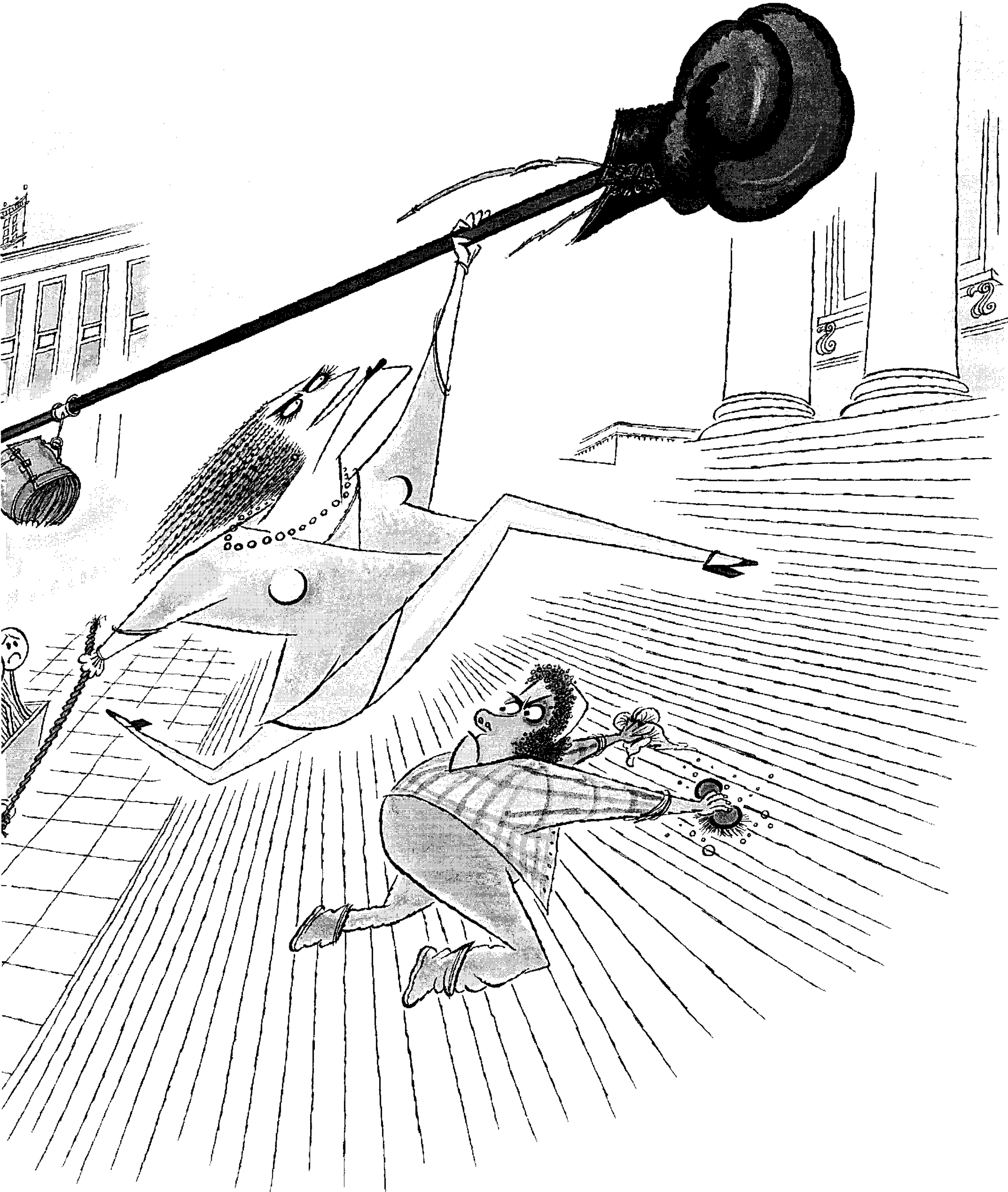
Such high ambitions required scrapping centuries-old canons of professional ethics that forbade the solicitation of cases. Lawyers were supposed to wait for clients to come to them; if they were allowed to solicit clients, the reasoning went, they would foment unnecessary and destructive litigiousness. But the new legal services attorneys actively sought out cases as part of a political strategy, urged on by no less an authority than Attorney General Nicholas Katzenbach. “To be reduced to inaction by ethical inhibitions,” Katzenbach announced, “is to let the canons of lawyers serve the cause of injustice.” In time, the whole profession—most notoriously the plaintiffs’ tort bar—would follow the lead of legal services attorneys and discard the inhibition against solicitation.

And how did the new legal services attorneys propose to “change the structure of the world”? By encouraging judges to create a whole new battery of rights. What was unfolding in the 1960s was nothing less than a reordering of government: a shifting of power from the legislature to the courts, with federally funded attorneys as the driving force. Nothing in the traditional legal aid movement anticipated this development.

Judge J. Skelly Wright of the D.C. Circuit Court of Appeals typified the new judicial activists. Wright created a novel body of tenants’ rights out of whole cloth, by following, according to his own admission, his political convictions, not the law. In 1982, he reminisced: “I offer no apology for not following more closely the legal precedents which had cooperated in creating the conditions that I found unjust.”

Though in reality the poor’s demand for legal assistance had shrunk throughout the 1950s, legal services architects nevertheless tirelessly bemoaned a “crisis” in the legal needs of the poor. With breathtaking honesty, legal services founder Edgar Cahn explained the ruse. The legal services “crisis,” he confessed, was wholly a product of the rights revolution currently under way. “Recent years have witnessed the creation of a vast and still growing array of legally vested rights,” he wrote in 1968. “The developing case law regarding the rights of juveniles, of tenants in public housing, of welfare recipients, of persons accused of a crime, of minority group members, has challenged the capacity of the legal system. The sheer logistical dimension raised by the rights explosion poses a crisis to the law.”





Cahn was creating a self-generating machine. "The greater supply of legal services generates more rights, thereby generating more demand for services and bringing more grievances to the surface," he blithely announced.

This litigation machine behaved quite like an ATM. Earl Johnson Jr., the Office of Economic Opportunity's former director of legal services, calculated in 1974 that liberalized welfare rules alone, the product of legal services litigation, had returned over $2 billion to welfare recipients in less than ten years. The desired redistribution of resources was under way. "A bare handful of lawyers," Johnson bragged, "has produced massive transfers of goods and services to the poor—some from the private sector and some from the public treasury."

At first, relations between the old-time legal aid society attorneys and the new government legal services crowd were testy. Advocates of government-funded legal services scorned their legal aid colleagues as too deferential to the bar and to legal traditions, and too paternalistic toward the poor. Many legal aid attorneys, for their part, warned that the new passion for "community control" was a destructive one. But even in the sixties, some legal aid offices started taking federal money; today, they are awash in it. As more and more legal aid societies jumped onto the bandwagon, they become indistinguishable from the legal services agencies in their agenda of maximizing entitlement use and multiplying rights.

Arthur von Briesen's and Reginald Heber Smith's quaint notion that workers deserve the most assistance disappeared overnight. The most significant rights being created were for non-workers: people on welfare. Legal services lawyers spurred the development of a new body of law for them: "poverty law," which was above all about maintaining an unimpeded stream of welfare benefits to recipients (though it included landlord-tenant and consumer law as well). Smith and von Briesen would have blanched at the notion that there should be a separate body of law for the poor—it was against just such a possibility that they had fought so hard. But poverty law assumed that poor people are victims of systemic injustice that only lawyers could cure, primarily by suing the fast-multiplying government agencies that provide benefits to low-income people.

What was the bar's response to these momentous changes—changes that wholly redefined the role of lawyers in the American polity? Cautious at first, then rapturous. After some behind-the-scenes political maneuvering, the ABA discarded its longstanding opposition to federally supported legal services and never looked back. By 1981, when President Reagan tried to dismantle the Legal Services Corporation, on the grounds that its lawyers were engaging in rank politics with taxpayer money, it was the ABA's strenuous protest, above all, that saved the agency.

The OEO's Earl Johnson Jr. himself marveled at the "philosophical transformation" that overtook the establishment bar in the 1960s. The civil rights movement spurred that transformation as much as did the new legal services' success. Civil rights litigation was the great template for using the courts to change society, one with unimpeachable moral authority. Much subsequent rights litigation rode in on its coattails, though with far less justification. In its wake, lawyers lost their image as the great stuffed whales of American conservatism and became sex symbols, in the mold of attorneys general Robert Kennedy and Nicholas Katzenbach. Students clamored to get into law schools to join this new vanguard of social justice.

Once there, they often found the traditional study of law hazardous to their sensitive souls. One law student of the era whined that "law school teaches students to deal with every conceivable loss, that of an arm and leg, five dollars, a wife—every one, that is, but the most important, the loss of one's self." Law schools responded to such complaints by creating programs in poverty and civil rights law. Newly minted lawyers who joined firms demanded that their employers create official pro bono programs, so that they could participate in the rights revolution while pulling in large corporation-funded salaries. Elite law firms established pro bono community services departments to perform the same poverty law functions as the federal legal services offices. In this way, the legal services revolution had succeeded in redefining pro bono work in its image.

Starting in the 1970s, the ABA and local bar associations began furiously cranking out position papers on pro bono work and revising relevant codes of professional responsibility to further the bar's involvement in the advocacy agenda. Over a decade ago, the Ford Foundation created the ABA's Law Firm Pro Bono Project, which pressures elite firms to commit 3 to 5 percent of their total billable hours to hands-on pro bono work, in addition to donating money to legal groups that represent the poor. The pressure has been effective. Many large firms now have full-time pro bono coordinators or partners, complete with staff; almost as many regularly place associates with advocacy and legal services groups on a rotating basis. The organized bars and the advocacy groups together have created an elaborate infrastructure to link big firms with the ever-proliferating public interest law outfits.

“Civil rights litigation was the great template for using the courts to change society.”

This infrastructure urges firms to take on big, politically charged cases. The results: in just the last several years, titans of the corporate bar have sued to dissolve anti-gang injunctions in gang-infested southern California areas; to fight quality-of-life law enforcement in San Francisco; to saddle prisons with court orders; to allow felons to vote; to block the death penalty in hundreds of cases, including for a woman who kidnapped and sexually abused a 13-year-old girl, injected the girl with drain cleaner, then shot her in the back when she didn't die; to force gun manufacturers to pay potentially millions in damages to crime victims; to defend minority set-asides and preferential admissions policies; to require bilingual education for Haitians; to make the Virginia Military Institute and the Citadel admit girl cadets; to declare the busty waitresses at the Hooters restaurant chain victims of gender discrimination; to compel the Boy Scouts to accept homosexual scoutmasters; to block the classification of AIDS as a sexually transmitted, or even communicable, disease; to enact homosexual marriage; and to challenge industrial facilities on grounds of “environmental racism.” In New York City alone, big-firm panjandrums have sued to force the city to pay union-scale wages to workfare workers; to enjoin aggressive crime-fighting in high-crime neighborhoods; to force the city to spend even more on the HIV-infected than the mind-boggling amount it already disburses; to wring $600 million from the city in a sex discrimination case (successfully prosecuted); to require the Saint Patrick's Day Parade to accept homosexual-rights marchers; and to force New York City to create special foster-care programs for children who “question their sexuality.” And this is just a sampling of cases undertaken in the name of the public good.

Recall that pro bono work gave New York City its unique, and uniquely tortured, court-ordered homeless system. It took shape when Sullivan & Cromwell associate Robert Hayes filed a massive pro bono suit claiming the city had a constitutional duty to provide shelter on demand. The city eventually settled the suit on terms agreeable to Hayes, terms that included court oversight of its every move regarding the homeless. It has never been free of homeless litigation since. When Hayes left Sullivan & Cromwell to found the Coalition for the Homeless, where he continued his nonstop suits against the city, he by no means sacrificed the unparalleled resources of New York's elite firms. The “trick” of the Coalition, he explains, “was to have a half-dozen cases going at any given time, all class actions, always co-counseled by major firms.” Maria Foscarinis, director of the high-profile National Law Center on Homelessness and Poverty, replicated the same “trick” with power firms in Washington, D.C., Hayes observes.

Hayes has used Paul, Weiss, Rifkind, Wharton & Garrison; Cahill Gordon & Reindel; Cravath, Swaine & Moore; and Davis Polk & Wardwell. Steven Banks of the Legal Aid Society, currently the main homeless-rights litigator in the city, has relied on Debevoise & Plimpton; Sullivan & Cromwell; and Winthrop, Stimson, Putnam & Roberts. Besides providing actual manpower, Manhattan's firms have poured millions of dollars into the incessant homelessness suits through contributions to the Legal Aid Society, the Coalition for the Homeless, the Urban Justice Center, and the ACT-UP spin-off, Housing Works.

I asked Robert Hayes why he didn't take his case for shelter on demand to the legislature, where it belongs. "Personally, I don't like politics," he replied forthrightly. "It's really hard."

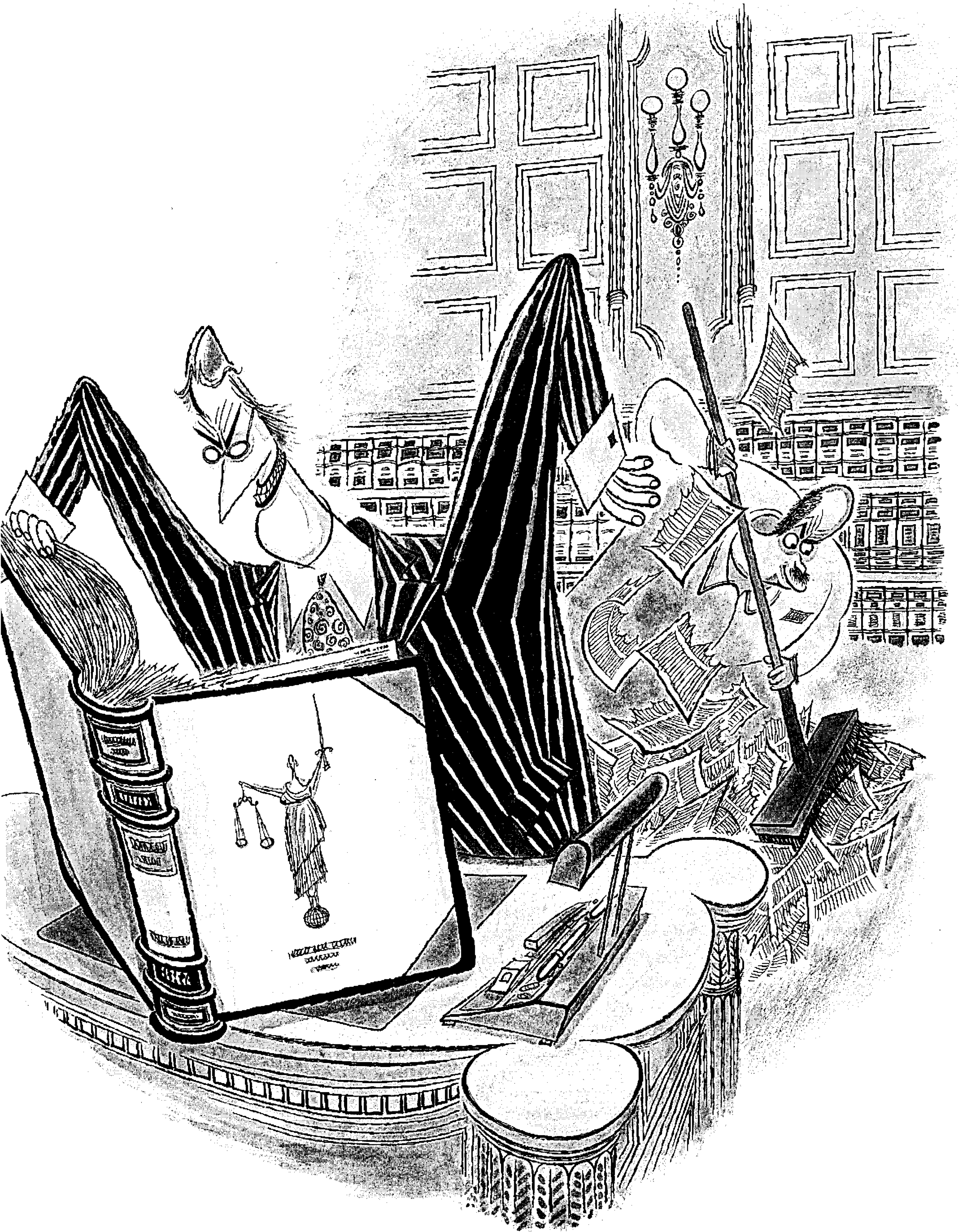
Here, in just eight frank words, is the trouble with class-action and other litigation that seeks to create new rights—the very heart of contemporary pro bono publico work. Hayes is right: persuading a legislature to commit the billions that New York City has been forced to spend in irrational ways on the homeless would be a whole lot harder than persuading one judge to order those billions spent. The legislature has to balance competing demands for taxpayer dollars; a judge can order an elaborate shelter and housing system without having to trade off dollars for teachers, say, versus dollars for private apartments for drug addicts with AIDS. Big political litigation allows elite lawyers to make an end run around the political process.

"Big political litigation allows elite lawyers to make an end run around the political process."

And, in so doing, they make others pay for their vision of the world, notes Francis Menton Jr., a partner at Willkie Farr & Gallagher. Menton has long observed the nexus between elite firms and the advocacy groups they support through pro bono lawyering and contributions. "Millionaire attorneys have decided how society should work," he says, "and they use the courts to make the middle class pay for their schemes." Menton calls the Legal Aid Society, now wholly transformed from its sober origins, an "agent of millionaire attorneys for forcing their charitable preferences on middle-class taxpayers."

Indeed, there is a breezy indifference among the Society's supporters to the costs of Legal Aid's demands. Over the years, for example, the city has paid out $5 million in court-ordered fines to single mothers claiming homelessness. Each mother got a $250 windfall if, instead of being placed immediately in housing, she had to stay overnight with her children in the homeless intake center. If she stayed a second night, she got another $250, and so on. I asked Cleary, Gottlieb, Steen & Hamilton partner Mitch Lowenthal, who has participated in the ongoing homeless litigation against the city, if this wasn't an irrational use of funds. Wouldn't the $5 million in fines be better spent for housing than for overcompensating a minor inconvenience that ordinary travelers must put up with often enough? Lowenthal was blasé: "How much is $5 million compared with the city budget?" he responded rhetorically. To a Cleary partner (1998 per-partner profits: $1 million), $5 million may seem like pocket change, but to the majority of city taxpayers, it's real money.

Pro bono work provides many other opportunities for showering taxpayer dollars on favorite charities. To understand how this works, first jettison the biggest misconception about contemporary pro bono litigation: that it is done for free. In fact, firms purporting to be fulfilling their public service obligations sometimes rake in thousands, even millions, of dollars in fees, usually from the government. The firms cash in under statutes that allow winning plaintiffs in rights cases to collect their attorneys' fees from the defendant (though the rationale that firms wouldn't otherwise take such cases breaks down in a pro bono context). The Silicon Valley powerhouse firm of Wilson Sonsini Goodrich & Rosati demanded $8.3 million in fees from defendant California in a prison litigation suit, then magnanimously settled for $3.5 million. San Francisco's Morrison & Foerster collected $1.24 million from California for invalidating a parental notification requirement for minors seeking abortions.



Having collected fees for something they claim to be doing charitably, a remarkable 30 percent of big firms pocket the entire sum without apology. The rest make an enormous show of donating some or all of the money—fresh from taxpayers' pockets—to their favorite public interest group. Often the recipient is the very advocacy group with which the firm just co-litigated, and the money goes to finance more suits against the public treasury. Thus is the litigation machine kept ever stoked with taxpayer dollars.

New York City has just witnessed precisely such a taxpayer-fleecing operation. Cahill Gordon and Schulte Roth & Zabel teamed up with Marcia Lowery, an attorney who sues child welfare agencies for a living as head of Children's Rights, Inc., to try to put New York City's entire child welfare administration under court supervision. They filed their suit just as Commissioner Nicholas Scoppetta began sweeping reforms in the agency. Commissioner Scoppetta immediately proposed a settlement. No go, declared Lowery, and proceeded to ring up nearly $11 million in pre-trial costs, calculated at corporate rates of up to $515 an hour. Almost four years later, the parties settled, on terms almost identical to what Commissioner Scoppetta had initially proposed. Those terms involved nothing the city was not already doing.

Now Lowery and Schulte Roth are asking the city for $9.18 million in fees. Cahill Gordon has already collected $1.57 million from New York State, also a party in the suit; it handed the $1.57 million, minus its expenses, right back to Lowery for more litigation. David Brodsky, the former Schulte Roth partner in charge of the litigation, will not return phone calls about the case; the firm has not yet announced what it intends to do with its expected $1.4 million. Perhaps it could first poll the city's taxpayers, to see how they would like their money spent.

Many big-firm lawyers today sound like Marxist academics when they discuss pro bono work. Take John Kiernan, a $600-an-hour litigation partner at Debevoise & Plimpton, who is also director of Legal Services for New York and the Lawyers Committee for Civil Rights Under the Law. Scorning the homely small-town tradition of pro bono work, he defines pro bono for "us big-city litigators" as the "process of committing resources for the legal representation of the disenfranchised."

"Disenfranchised" is pretty strong stuff, calling up images of a racist South trampling on voting rights. Asked for an example of the disenfranchised today, Kiernan cites blacks allegedly targeted by the New York City police for stop-and-frisks. Are their legislators not representing them? "I mean disempowered, not disenfranchised literally," he says.

But disempowered? Consider that Kiernan's firm, spurred on by the Amadou Diallo shooting, is suing the New York City Police Department, charging that its Street Crimes Unit illegally singles out blacks for street stops. In the wake of that shooting, black leaders in New York City and beyond focused unprecedented international attention on the NYPD; they persuaded the president, the First Lady, the Justice Department, the U.S. Civil Rights Commission, the New York attorney general, and a host of lesser political entities to denounce the department. Given that political muscle, it strains credulity to claim that blacks in Harlem and the Bronx lack political power.

But wait, there is one group that is literally disenfranchised today—felons—and Debevoise & Plimpton has sued to change that, too. Kiernan claims that the law that disenfranchises felons violates blacks' voting rights, because so many blacks are in prison. Kiernan has no problem taking away white felons' voting rights, but "you worry when [the disenfranchisement laws] have a racial impact." Isn't the real problem the black crime rate? No, because the drug sentencing laws discriminate, too, he says—a dodge that ignores the very real problem of crime and violence in minority neighborhoods.

Progressives once denounced the corporate bar for its stuffy self-certainty. Today's elite bar possesses the same self-confidence, but it directs its infallibility at different targets. Milbank, Tweed, Hadley & McCloy partner Joseph Genova, for example, head of the firm's pro bono program, passionately opposes welfare reform, which he calls a "diabolical scheme" to "shove as many people from the rolls as possible [and] remove the tax burden from the wealthy." The previous welfare regime seems pretty much fine to him. But what about the harsh criticism that people in poor communities, especially the working poor, make of that regime? "I'm aware of the phenomenon," he says. "I'm confident that the complainers don't know what they're talking about." One can't help think that residents of welfare-saturated neighborhoods might have a better idea of welfare's effects than a Milbank partner (1998 per-partner profits: $1.1 million), however.

Fortunately, pro bono work has broadened in the last several years beyond adversarial suits against government and claims of discrimination. Now, corporate attorneys from Paul Weiss and Winthrop Stimson, among other firms, help small businesses, many of them located in minority areas or empowerment zones, with their legal needs. Milbank Tweed lawyers counsel individuals seeking to adopt children and help elderly homeowners trapped in foreclosure proceedings. Cleary Gottlieb attorneys mentor inner-city high school students. The Volunteers of Legal Services, a New York City pro bono clearinghouse, finds attorneys for poor elderly people needing legal help. There has even been a slight counter-movement to include more "conservative" cases in support of personal responsibility, assimilation, and color-blindness. In a landmark for conservative pro bono work, Los Angeles–based Gibson, Dunn & Crutcher represented Cheryl Hopwood in her successful challenge to racial preferences at the University of Texas Law School. Davis Polk has defended the eviction of drug dealers from public housing and recently supported a family member's request to medicate a severely psychotic sibling without her consent. Skadden, Arps, Slate, Meagher & Flom defended California's ballot initiative banning bilingual education against a court challenge, albeit anonymously.

> **"Having collected fees for something they claim to be doing charitably, 30 percent of big firms pocket the entire sum."**

Still, at least Skadden Arps took the case—unlike the prestigious Manhattan firm where two partners wanted to argue against racial gerrymandering several years ago, also without using their firm's name on the legal papers. They were forbidden, on the grounds that fighting for color-blind legislative districting would tar the firm as "racist" at law schools. "I became discouraged," one of the partners recalls. "To take a high-profile conservative case—too many people here think it's disgusting."

Overall, getting prestigious firms to accept conservative cases pro bono remains an uphill struggle. Top-scoring Chinese-American students, barred by racial quotas from San Francisco's prestigious Lowell High School, were turned away by every big San Francisco firm they solicited for pro bono representation. Dennis Saffran of the mildly conservative Center for the Community Interest, an advocate for public safety and quality of life, says that finding pro bono counsel for every case is "a fight." By contrast, when the ABA sent out a call for additional firms to represent homosexual scoutmaster James Dale against the Boy Scouts, Morrison & Foerster's pro bono coordinator Kathi Pugh had a Mo Foe attorney lined up "within an hour," she says. Other firms, such as Kramer Levin Naftalis & Frankel, signed up as well.

It is time for firms to ask whether their pro bono programs in fact serve the public good. The problems of the long-term poor today cannot be solved with litigation; attorneys would accomplish far more acting as Big Brothers and Big Sisters, scoutmasters, and tutors. Though the pro bono industry pushes for bigger and bigger cases, what the most troubled poor need is on the micro level—an understanding of work, the commitment to stay in school, a stable family. If benefits and more government spending could solve juvenile delinquency, nonwork, or illegitimacy, we would have solved them long ago.

Since the 1960s, many lawyers have believed they are specially fitted to improve society by creating new rights that a heartless majority refuses to recognize. The pro bono docket exemplifies this newfound hubris. Its failure to bring about any visible improvement should inspire humility.

The Vanishing Teacher and Other UFT Fictions

The union blames poor schools on low teacher pay, which drives away qualified teachers. It's a purely political myth.

Sol Stern

By now, millions of New Yorkers have seen the compelling TV commercial of a classroom full of angelic-looking children, staring patiently and sadly at the empty teacher's desk at the front of the room. This prime-time spot caps a $2 million United Federation of Teachers media campaign to convince New Yorkers that their public schools are doomed unless all 78,000 teachers get a huge wage boost.

The ads aim to strengthen the union's hand for upcoming labor negotiations (the current contract expires on November 15)—but they have a broader purpose, too. They aim, as well, to stem growing local and national discontent with inner-city public schools. The "teacher shortage" is one of the education establishment's excuses for urban school failure. We don't need radical reforms such as vouchers or charter schools, the educrats contend, nor do we need to hold teachers accountable for their performance. Just give us enough money to compete for the most qualified teachers, and city schools will do as well as suburban schools.

"The law of supply and demand applies to teachers just as it does to any other profession," explains a recent UFT ad in the *New York Times* (the union's first-ever discovery of Adam Smith's invisible hand). "Newly certified teachers are heading for high-paying suburban schools. And many experienced teachers in New York City are being cherry-picked by the same schools. . . . The teacher shortage is a civic crisis New York City must face *now*, before it wreaks havoc on a school system already grappling with a severe shortage of certified teachers." The union blames low salaries—25 percent lower than in the suburbs—for the record number of 11,000 uncertified teachers in classrooms and for the more than 54,000 further defections from the system it expects over the next five years.

The UFT hopes to make the "civic crisis" theme resonate loudly during what is not only a contract year but also a key election year in New York. The union and its favorite candidate, Hillary Clinton, want the education conversation to be about the paucity of resources and low teacher salaries in city schools. Rudy Giuliani is sure to stress competition and accountability, attacking the public school monopoly for protecting the interests of school employees over the interests of the children. The union's ads are the opening shots in the education debate of this year's senatorial campaign.

How much of the UFT's scare campaign about the "teacher shortage crisis" is true? And, more important, how can New York, even within present budget constraints, improve the performance of its current classroom teachers and attract qualified new recruits?

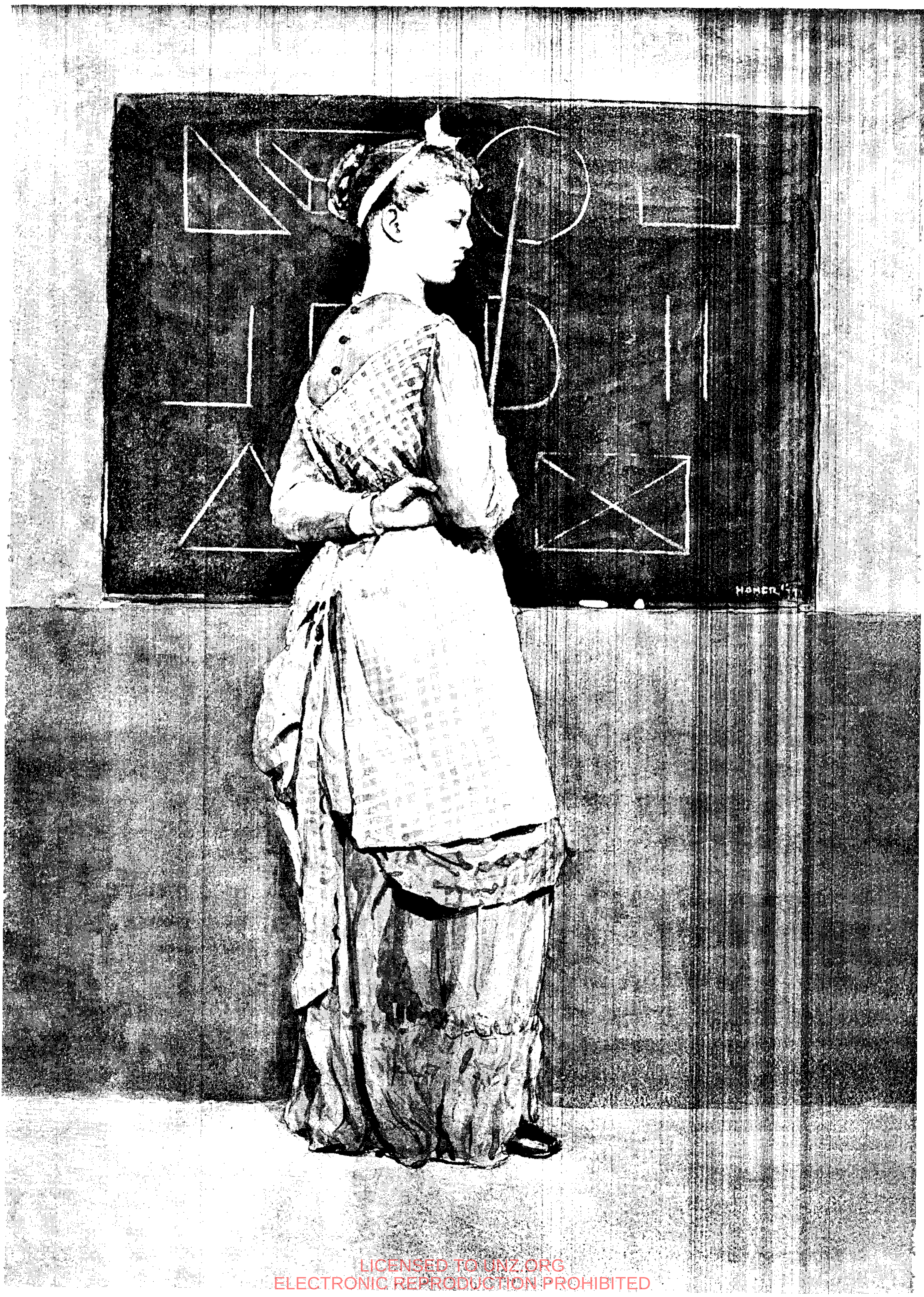
First, it's true that the surrounding suburbs do pay their teachers a lot more money. That's not news. Many successful New York City residents choose to move out to these gilded suburbs largely so that they can lavish lots of their property tax money on their children's schools. Much of that money goes to teachers.

If anything, the UFT has understated the salary gap. According to the most recent State Education Department data, the median New York City teacher's salary was $47,345 in 1997–98. While this figure was higher than median teacher salaries in 44 of the 57 counties outside of the city, it looks puny beside Westchester County's $68,400 and Nassau County's $66,262. The teacher salary gap between the city and the closest suburban counties, in other words, was more than 40 percent.

Even that 40 percent figure doesn't reflect the real gap with the wealthiest neighboring suburban districts. For example, the median teacher salary for

Most uncertified teachers are those still working to complete ever-proliferating state requirements.

WINSLOW HOMER, *BLACKBOARD* (1877), COURTESY, NATIONAL GALLERY OF ART


HOMER '77

Scarsdale was $81,410, an astronomical 73 percent higher than the city's. Other close-in suburbs, such as Rye, Harrison, Bronxville, Chappaqua, and Great Neck, paid salaries almost as high as Scarsdale's. It is reasonable to assume that those wealthy suburbs exert a draw on trained New York City teachers. After all, a 30-year-old city teacher with five years of experience who manages to land a job in Scarsdale can expect to earn as much as an extra $1 million in salary and pension benefits over her career.

But hoping for that job in Scarsdale or Great Neck is not the same as getting it. So when the UFT says that "many experienced teachers are being cherry-picked" by the suburbs, it's essential to know exactly how many is "many." Amazingly, the UFT doesn't know or want to know the answer. A union spokesperson told me that the UFT had never actually tried to compile data on teacher transfers to the suburbs. Nor, as I recently discovered, does the New York City Board of Education or the State Education Department collect such information.

Nevertheless, we can make some reasonable estimates based on data that are available. With 23,000 teachers in Westchester and Nassau, and using a widely accepted teacher turnover rate of 10 percent for the suburbs, we can estimate some 2,300 teacher vacancies each year in these two counties together. To estimate how many of these available jobs might be filled by city teachers, I called five suburban districts with very high teacher pay scales and close proximity to the city—Rye, Mamaroneck, Scarsdale, Great Neck, and Glen Cove. I asked officials in those districts what percentage of their yearly vacancies they fill with former New York City public school teachers. The average: about 17 percent. I then called districts in the northern reaches of Westchester and the eastern end of Nassau and discovered that very few of their hires came from city public schools. Using the most liberal estimate, I assumed a 15 percent figure for all of Westchester and Nassau. Applying this to the 2,300 vacancies leads to an estimate of 350 New York City teachers hired each year by Westchester and Nassau school districts—less than 0.5 percent of the New York City teacher workforce. No doubt some New York City teachers are also taking jobs farther out in Suffolk and Putnam Counties and in some nearby areas of New Jersey. Yet even if we doubled the total to 700, it would still mean that less than 1 percent of the city's teachers are switching to the suburbs each year. This hardly makes for a "civic crisis."

The UFT ads are not only deceptive in depicting a nonexistent mass exodus to the suburbs, but they also create the false hope that salary increases would be the solution to the problem, if it did exist. The union knows that contract negotiations with the city do not occur in a vacuum. Raises for one municipal union create a benchmark for settlements with the other unions. Indeed, UFT president Randi Weingarten heads a coalition of municipal union leaders pledged to act in concert this year. Given that reality, no New York City mayor, even among the current crop of Democratic hopefuls, could conceivably agree to teacher-salary increases of more than 15 percent or 16 percent spread out over three years.

Nevertheless, let's assume that the figure turns out to be a historically unprecedented 25 percent, raising the city's median teacher salary to about $59,000. During those three years, though, districts such as Scarsdale and Rye would also be giving their teachers raises, albeit less dramatic ones, so there would still be a salary gap of at least $25,000 per year. Since teaching in the suburbs would still be more pleasant than teaching in the city, just as many New York teachers would covet those suburban jobs. Raising salaries may accomplish some worthwhile things—if, for example, raises were doled out as incentives for improving classroom performance—but preventing teachers from fleeing to the wealthiest suburbs is not one of them.

What about those 11,000 uncertified teachers the city is forced to put up with—because, claims the UFT, it is not willing to pay for certified ones? To the union, that number is a major scandal and partly explains poor student performance. UFT president Weingarten recently noted that the city school districts with the highest number of uncertified teachers also had the lowest test scores, suggesting a causal relationship.

This is a break with UFT orthodoxy. Normally the union takes the position that, except for a very rare lemon, all its members are hardworking, dedicated professionals. That's why we don't need merit-pay scales and other monetary incentives to distinguish between effective and noneffective teachers. Now, however, the union would have us believe that one entire class of teachers, the uncertified, is inferior to another class, the certified.

Not so. To be sure, a minority of these 11,000—perhaps 3,000 of them—have repeatedly failed the state's subject-matter tests. These teachers should be fired. Even if none of them was replaced, we would still have about 75,000 teachers for 1.1 million students—a student-to-teacher ratio of 14.6 to one, slightly higher than the student-to-teacher ratios of 14.3 for Nassau County and 14.1 for Westchester County but lower than the 15.1 ratio for Suffolk County. The Board of Education would also save a hefty $150 million, which it could use as financial incentives for greater teacher productivity.

> **“The union says it is shocked—shocked!—to discover that so many New York City teachers are uncertified.”**

But the other 8,000 or so of those 11,000 uncertified teachers aren't uncertified because they've failed the tests but because they are still working to complete the vast number of requirements (both academic and otherwise) for permanent certification that the Board of Regents has been piling on inexorably. One of these—a content test in the subject you are about to teach—is a reasonable requirement. Many of the others, from an education master's degree to courses in “human relations,” bear little or no relation to classroom performance.

With the possible exception of the schools of education, no education group has lobbied more fervently for these stricter licensing requirements than the teacher unions. The reasons are clear: when government regulators pile on time-consuming and expensive requirements to obtain a license to work, the overall effect is to reduce the job-applicant pool. Unions make claims for higher salaries when the pool is smaller, even more so when they can claim a “teacher shortage crisis.” Having supported policies that make teachers jump through more and more hoops to become certified, the union now says it is shocked—shocked!—to discover that so many New York City teachers are uncertified and that we may not have enough certified teachers in the future.

According to the UFT, passing a competency test, receiving a master's degree in education, and serving as a student teacher under the supervision of an education school are all necessary to make someone a good classroom teacher. Most of the empirical research on the issue shows otherwise. After studying a huge cohort of Texas schools, Rochester University economist Eric Hanushek reported finding “no evidence that having a master's degree improves teacher skills.” Other education economists, such as Michael Podgursky and Dale Ballou, have found little correlation between completing traditional teacher-certification programs and classroom teaching skills.

The research findings shouldn't surprise most parents with children in the public schools. They can recall that their children have had horrible, incompetent teachers who were fully certified and excellent teachers who were not certified. The most extraordinary teacher my son ever had was Iftimie Simion, his math teacher at Manhattan's Stuyvesant High School. Before immigrating to the United States, Simion coached the Rumanian national math team. But that wasn't good enough for New York's Board of Ed. Since Simion hadn't yet obtained a permanent certificate, this beloved teacher was under constant threat of being replaced by a properly certified teacher with seniority. One proposed transfer teacher who almost got the job was nearly 70 years old and had never taught high school math. Only desperate lobbying by Stuyvesant's principal saved Simion's job.

Among the most sophisticated education consumers in New York City are the parents who send their children to the elite private schools that charge up to $20,000 in annual tuition. Though these schools have virtually no certified teachers, I have heard of no complaints from those parents that they are not getting their money's worth.

The new New York City interim schools chancellor, Harold Levy, happens to be one of those sophisticated education consumers. He sends his children to the Dalton School, where they are taught almost exclusively by teachers without state certifi-

WINSLOW HOMER, *THE COUNTRY SCHOOL* (1871), FRANCIS G. MAYER/CORBIS

cation or ed-school training. Yet Levy was a member of the Board of Regents when that body tightened the certification requirements for public school teachers. Since bright young college graduates apparently do a good job for his children, why aren't they also good enough to replace some of the awful certified teachers public school kids endure?

When the UFT says that we need to raise salaries in order to guarantee a "well qualified" teacher in every classroom, one might assume it means someone who improves student outcomes. In fact, all the union really means by "well qualified" is a teacher who has the proper state credentials, something that bears no relation to student performance. As a result, the public is unaware of how salaries might actually be used to improve teacher performance. The UFT has also tried to steer the public debate away from tried-and-true non-salary-related measures that the city might use to broaden the pool of teacher applicants.

Instead of worrying about salaries in Westchester or Nassau, public officials concerned with solving the city's teacher-supply problems ought to be looking to New Jersey. For the past 15 years, that state has had one of the most successful "alternate route" teacher-certification programs in the country. School districts have expanded the teacher pool by bringing in candidates—mostly recent college grads—with academic expertise and an interest in teaching who are unwilling to invest the time and money it takes to graduate from an ed school. Hired without any credentials except their B.A., they then undergo classroom mentoring with a veteran teacher. They must also take a much condensed version of the traditional 36 credits' worth of education courses—usually amounting to the equivalent of 12 credits and taught by the district that hires the alternate licensed teacher rather than by a traditional ed school. Finally, the alternate teachers have to pass a state-administered subject-matter test. After completing these three steps, and after the principal certifies that they are able to perform in the classroom, these teachers receive a state credential.

Not unexpectedly, New Jersey's two teacher unions bitterly opposed the alternate-route program. The unions and the ed schools warned that "unprepared" alternate-route teachers would soon leave in horror when they discovered that they couldn't handle classroom problems. But state education authorities stuck to their guns, and in recent years more than 20 percent of New Jersey's new teachers have come through the alternate-certification route. According to state education department figures, the alternate-route teachers have substantially higher scores on the state's subject-matter tests and lower attrition rates than traditionally trained teachers. Moreover, a higher percentage of them are minorities. Perhaps the best gauge of the program's success is that since 1985 New Jersey has not had to issue a single emergency certificate.

Governor Pataki has now proposed a modified form of alternative certification in New York for older career changers. But New York, with shortages of math and science teachers, ought to be able to recruit not just oldsters but recent college graduates with degrees in those subjects as well. As in New Jersey, a New York school district could put such graduates into a classroom with a mentor and

Student performance bears no relationship to whether the teacher has the required state credentials.

offer the radically compacted education curriculum in special district learning centers.

The "teacher shortage crisis" would look far more manageable if the school system could expand the applicant pool by, say, 2,000 teachers each year through alternative licensing. This small step would not cost the city a penny. Yet those eager teachers could bring the schools other tangible benefits. They would probably have a strong grounding in their academic specialties, and, not having attended education schools, they wouldn't bring damaging progressive-education doctrines into the classroom. Alternative licensing would also allow the city to compete for that stream of teachers that it has foolishly conceded to the private schools.

Would the alternative-route teachers be any better or any worse than traditionally licensed teachers? Classroom teaching is the key measure: education researchers and economists now believe that teacher effectiveness in the classroom trumps every other variable—including class size, per-pupil expenditure, and ed-school courses taken by the teacher—in accounting for student improvement. It is ten to 20 times as significant as any other variable, according to University of Tennessee statistician William Sanders, who officially monitors student and teacher performance for the state of Tennessee. Leo Klagholz, the former New Jersey State commissioner of education who developed the state's alternative-licensing program, observes in a recent publication of the Thomas B. Fordham Foundation that "knowledge of subject matter, and personal traits like intelligence, human sensitivity and caring, communication ability, work ethic, self-discipline, [and] ability to relate to children" are more crucial to teacher effectiveness than an ed-school degree. "As a result," he warns, "when government uses teacher training as a formal job eligibility screen it produces the double error of failing to guarantee the competence of those who meet requirements while also eliminating many individuals who have significant capabilities."

New York City can ensure a supply of competent teachers through streamlined certification guidelines that would encourage well-educated persons to consider teaching as a career. But once the school system has a larger teacher-candidate pool, it still must answer this question: How can we encourage and reward effective classroom teaching? An important part of the answer lies in reinventing the teachers' contract. As presently written, it is an inflexible, rules-driven document that perpetuates a culture of complacency and mediocrity in the schools. The union argues that teachers, like all workers, need protection from abuse by their superiors. But this contract effectively shields teachers from all legitimate supervisory oversight. Here are the contract's three most destructive provisions and how we might fix them.

First, the Board of Education, belatedly, has been moving to end automatic social promotion for students. But the labor contract institutionalizes a destructive system of social promotion for teachers. Once they have a state license, teachers receive pay increases irrespective of how hard they work or how much their students learn. Teachers can also add to their salaries by accumulating more useless ed-school credits. Money is passed from the city treasury to the teachers and then circulated back to the ed schools and the union (which offers many of the courses) in the form of tuition payments. Yet there isn't a shred of evidence that students benefit when their teachers take all those extra ed courses. A more constructive solution: eliminate the extra-pay boondoggle for education credits past the master's degree. Take the money saved and sprinkle it among those teachers deemed actually to have improved student performance.

Second, the teachers' contract states that the school day is six hours and 20 minutes long and that the school year for teachers begins only one day before the students show up in September. The UFT assures one and all that teachers put in hundreds of extra hours in school and at home. No doubt many do. But one of the dirty little secrets of the system is that many New York City teachers actually do work to the six-hour-20-minute standard—which adds up to some 950 hours per year, or about half of what an average American wage earner works. It is time to remove the six-hour-20-minute standard from the contract and instead allow principals to make sure teachers spend however long it takes to correct homework, prepare lessons well, and deal with parents. Teachers should also have to report in at least a week before school opens in order to do some essential planning. The new contract should also mandate that the city comptroller's office regularly monitor teacher hours.

Third, New York City principals no longer enjoy tenure rights. They are now on renewable contracts, like middle managers in any other enterprise. But if this new system of accountability is to work, it has to spread down through the whole system. If district superintendents and the chancellor are to evaluate principals on their performance, the principals, in turn, must be given the authority to manage their own workforce. That means hiring and removing teachers on the basis of their performance and making classroom assignments on the basis of the needs of the children rather than the seniority rights of the teachers. It means giving higher pay for excellent performance, not for years of service. The current contract denies all of this essential authority to principals.

More than keeping teachers from leaving for the suburbs, our schools need a system of rational incentives for increasing the productivity and classroom effectiveness of the teachers who remain. Mayor Giuliani has already stated that superior classroom performance should be rewarded and poor work should be sanctioned. Interim chancellor Harold Levy confronted the slacker culture of the public schools on his very first day on the job at 110 Livingston Street when he walked into one of that building's notoriously filthy rest rooms. His reaction, commonplace enough for any chief executive in the business world from which he came, was unheard of in the world of public education. The brand-new chancellor prominently posted a memo in the building's lobby, warning the custodian either to clean up the pigsty or get another job.

Would that this chancellor and the mayor might team up to negotiate a new contract that begins to attack the slacker culture that prevails in the schools. Were they to succeed, the kids in that TV commercial would have a much better chance than they have now of actually seeing not just an adult, but a hard-working and competent adult, sitting at that teacher's desk.

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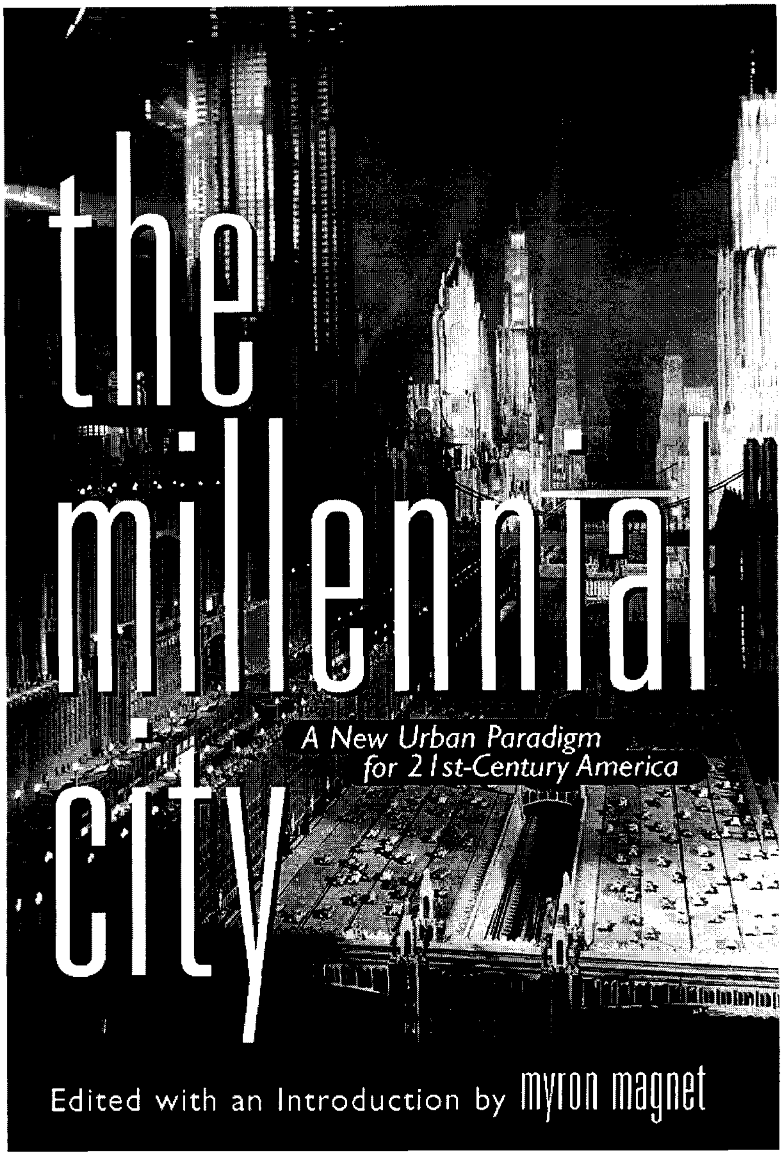
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Who Killed School Discipline?

Court decisions and federal laws have turned principals into psychobabbling bureaucrats. How can kids respect them?

Kay S. Hymowitz

Ask Americans what worries them most about the public schools, and the answer might surprise you: discipline. For several decades now, poll after poll shows it topping the list of parents' concerns. Recent news stories—from the Columbine massacre to Jesse Jackson's protests against the expulsion of six brawling Decatur, Illinois, high school students to the killing of one Flint, Michigan, six-year-old by another—guarantee that the issue won't lose its urgency any time soon.

Though fortunately only a small percentage of schools will ever experience real violence [see box page 38], the public's sense that something has gone drastically wrong with school discipline isn't mistaken. Over the past 30 years or so, the courts and the federal government have hacked away at the power of educators to maintain a safe and civil school environment. Rigid school bureaucracies and psychobabble-spouting "experts" have twisted such authority as remains into alien—and alienating—shapes, so that kids today are more likely than ever to go to disorderly schools, whose only answers to the disorder are hamfisted rules and therapeutic techniques designed to manipulate students' behavior, rather than to initiate them into a genuine civil and moral order. What's been lost is educators' crucial role of passing on cultural values to the young and instructing them in how to behave through innumerable small daily lessons and examples. If the children become disruptive and disengaged, who can be surprised?

School discipline today would be a tougher problem than ever, even without all these changes, because of the nationwide increase of troubled families and disorderly kids. Some schools, especially those in inner cities, even have students who are literally violent felons. High school principal Nora Rosensweig of Green Acres, Florida, estimates that she has had 20 to 25 such felons in her school over the last three years, several of them sporting the electronic ankle bracelets that keep track of paroled criminals. "The impact that one of those students has on 100 kids is amazing," Rosensweig observes. Some students, she says, find them frightening. Others, intrigued, see them as rebel heroes.

But today principals lack the tools they used to have for dealing even with the unruliest kids. Formerly, they could expel such kids permanently or send them to special schools for the hard-to-discipline [see box, page 40]. The special schools have largely vanished, and state education laws usually don't allow for permanent expulsion. So at best a school might manage to transfer a student felon elsewhere in the same district. New York City principals sometimes engage in a black-humored game of exchanging these "Fulbright Scholars," as they jokingly call them: "I'll take two of yours, if you take one of mine, and you'll owe me."

Educators today also find their hands tied when dealing with another disruptive—and much larger—group of pupils, those covered by the 1975 Individuals with Disabilities Education Act (IDEA). This law, which mandates that schools provide a "free and appropriate education" for children regardless of disability—and provide it, moreover, within regular classrooms whenever humanly possible—effectively strips educators of the authority to transfer or to suspend for long periods any student classified as needing special education.

This wouldn't matter if special education included mainly the wheelchair-bound or deaf students whom we ordinarily think of as disabled. But it doesn't. Over the past several decades, the number of children classified under the vaguely defined disability categories of "learning disability" and "emotional disturbance" has exploded. Many of these kids are those once just called "unmanageable" or

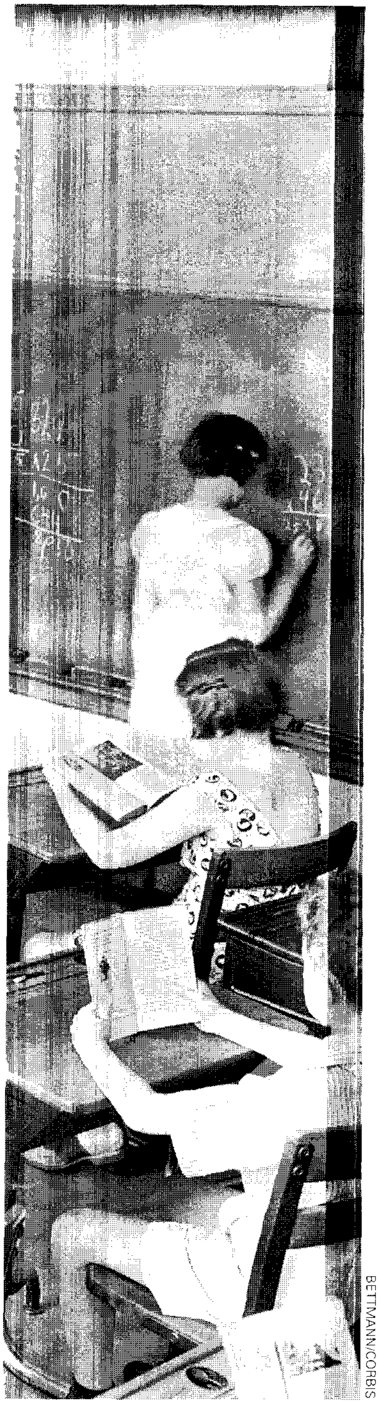
Because disciplining a student can turn into a federal case today, school officials hesitate to act.

BETTMANN/CORBIS

The key to school discipline is creating a community of shared values.

"antisocial": part of the legal definition of emotional disturbance is "an inability to build or maintain satisfactory interpersonal relationships with peers and teachers"—in other words, to be part of an orderly community. Prosecutors will tell you that disproportionate numbers of the juvenile criminals they now see are special-ed students.

With IDEA restrictions hampering them, school officials can't respond forcefully when these kids get into fights, curse teachers, or even put students and staff at serious risk, as too often happens. One example captures the law's absurdity. School officials in Connecticut caught one student passing a gun to another on school premises. One, a regular student, received a yearlong suspension, as federal law requires. The other, disabled (he stuttered), received just a 45-day suspension and special, individualized services, as IDEA requires. Most times, though, schools can't get even a 45-day respite from the chaos these kids can unleash. "They are free to do things in school that will land them in jail when they graduate," says Bruce Hunter, an official of the



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American Association of School Administrators. Laments Julie Lewis, staff attorney for the National School Boards Association: "We have examples of kids who have sexually assaulted their teacher and are then returned to the classroom."

Discipline in the schools isn't primarily about expelling sex offenders and kids who pack guns, of course. Most of the time, what's involved is the "get your feet off the table" or "don't whisper in class" kind of discipline that allows teachers to assume that kids will follow the commonplace directions they give hundreds of times daily. Thanks to two Supreme Court decisions of the late 1960s and the 1970s, though, this everyday authority has come under attack, too.

The first decision, *Tinker* v. *Des Moines School District*, came about in 1969, after a principal suspended five high school students for wearing black armbands in protest against the Vietnam War. *Tinker* found that the school had violated students' free-speech rights. "It can hardly be argued," wrote Justice Abe Fortas for the majority, "that students or teachers shed their constitutional rights to free speech or expression at the schoolhouse gate." Schools cannot be "enclaves of totalitarianism" nor can officials have "absolute authority over their students," the court solemnly concluded.

Quite possibly the principal in *Tinker* made an error in judgment. But by making matters of school discipline a constitutional issue, the court has left educators fumbling their way through everyday disciplinary encounters with kids ever since. "At each elementary and middle school door, you have some guy making a constitutional decision every day," observes Jeff Krausman, legal counsel to several Iowa school districts. Suppose, says Krausman by way of example, that a student shows up at school wearing a T-shirt emblazoned WHITE POWER. The principal wants to send the kid home to change, but he's not sure it's within his authority to do so, so he calls the superintendent. The superintendent is also unsure, so he calls the district's lawyer. The lawyer's concern, though, isn't that the child has breached the boundaries of respect and tolerance, and needs an adult to tell him so, but whether disciplining the student would violate the First Amendment. Is this, in other words, literally a federal case?

And that's not easy to answer. "Where do you draw the line?" Krausman asks. "Some lawyers say you should have to prove that something is 'significantly disruptive.' But in Iowa you might have a hard time proving that a T-shirt saying WHITE POWER or ASIANS ARE GEEKS is significantly disruptive." Meanwhile, educators' power to instill civility and order in school dissolves into tendentious debates over the exact meaning of legal terms like "significantly disruptive."

In 1975, the Supreme Court hampered school officials' authority yet further in *Goss* v. *Lopez*, a decision that expanded the due-process rights of students. *Goss* concerned several students suspended for brawling in the school lunchroom. Though the principal who suspended them actually witnessed the fight himself, the court concluded that he had failed to give the students an adequate hearing before lowering the boom. Students, pronounced the court, are citizens with a property right to their education. To deny that right requires, at the least, an informal hearing with notice, witnesses, and the like; suspensions for longer than ten days might require even more formal procedures.

Following *Tinker*'s lead, *Goss* brought lawyers and judges deeper inside the schoolhouse. You want to suspend a violent troublemaker? Because of *Goss*, you now had to ask: Would a judge find your procedures satisfactory? Would he agree that you have enough witnesses? The appropriate documentation? To suspend a student became a time-consuming and frustrating business.

Students soon learned that, if a school official does something they don't like, they can sue him, or at least threaten to do so. New York City special-ed teacher Jeffrey Gerstel's story is sadly typical. Last year, Gerstel pulled a student out of his classroom as he was threatening to kill the assistant teacher. The boy collided with a bookcase and cut his back, though not badly enough to need medical attention. Even so, Gerstel found himself at a hearing, facing the student's indignant mother, who wanted to sue, and three "emotionally disturbed adolescents"—classmates of the boy—who witnessed the scuffle. The mother soon settled the dispute out of court and sent her son back to Gerstel's classroom. But by then, Gerstel had lost the confidence that he needed to handle a roomful of volatile teenagers, and the kids knew it. For the rest of the year, they taunted him: "I'm going to get my mother up here and bring you up on charges."

In another typical recent case, a Saint Charles, Missouri, high schooler running for student council handed out condoms as a way of drumming up votes. The school suspended him. He promptly sued on free-speech grounds; in previous student council elections, he whined, candidates had handed out candy. Though he lost his case, his ability to stymie adults in such a matter, even if only temporarily, could not but give him an enlarged sense of his power against the school authorities: his adolescent fantasy of rebellion had come true.

These days, school lawyers will tell you, this problem is clearing up: in recent years, they point out, the courts have usually sided with schools in discipline cases, as they did in Missouri. But the damage done by *Tinker*, *Goss*, and their ilk isn't so easily undone. Lawsuits are expensive and time-consuming, even if you win. More important, the mere potential for a lawsuit shrinks the adult in the child's eyes. It transforms the person who should be the teacher and the representative of society's moral and cultural values into a civil servant who may or may not please the young, rights-armed citizen. The natural relationship between adult and child begins to crumble.

The architects of IDEA, *Tinker*, and *Goss*, of course, thought of themselves as progressive reformers, designing fairer, more responsive schools. Introducing the rights of free speech and due process, they imagined, would ensure that school officials would

How Safe Are the Schools?

Critics of zero tolerance and other tough discipline measures often scoff that the nation's schools are fairly safe and getting safer. And it's true that only 10 percent of U.S. schools report incidents of serious violence yearly, and that the number of high school kids who reported carrying a gun or fighting at school fell steadily from 1991 to 1997.

But Americans still have reasons to worry. First, school violence has spread beyond inner-city high schools, to which it was limited in the 1980s and early nineties, to move outward into middle-class and affluent areas, and down the age ladder into middle and elementary schools.

Second, school discipline worsened during the nineties and did so in unexpected places. According to the National Center for Education Statistics, the number of high school principals who complained of serious disciplinary problems in their schools rose significantly. Suburban schools are now more likely than inner-city schools to experience rising levels of absenteeism, tardiness, and classroom disruption. During the nineties, for example, verbal abuse of teachers fell almost 10 percent in schools in which 75 percent of students were poor enough to qualify for the free lunch program, while increasing in schools in more affluent areas.

More ominous still is the growing discipline problem in elementary schools. One recent poll showed the percentage of elementary school teachers who say students disrupt the classroom most of the time or fairly often rose from 48 percent in 1984 to 65 percent in 1997. The number of elementary school teachers who report kids talking back and disobeying them also went up markedly.

The spread of violence and discipline problems into usually safe havens is not random. More kids, even among the privileged and the very young, are angry, lost, or just plain uncivilized. Inevitably, some will get hold of guns. Since school shootings seem to occur most often in the spring, we may be facing a few more of them soon.

make fewer "arbitrary and capricious" decisions. But lawmakers failed to see how they were radically destabilizing traditional relations between adults and children and thus eroding school discipline.

School bureaucracies have struggled to restore the discipline that the courts and federal laws have taken away, but their efforts have only alienated students and undermined adult authority even more. Their first stratagem has been to bring in the lawyers to help them craft regulations, policies, and procedures. "If you have a law, you'd better have a policy," warns Julie Lewis, staff attorney for the American School Boards Association. These legalistic rules, designed more to avoid future lawsuits than to establish classroom order, are inevitably abstract and inflexible. Understandably, they inspire a certain contempt from students.

> **"Students soon learned that, if a school official does something they don't like, they can sue him."**

Putting them into practice often gives rise to the arbitrary and capricious decisions that lawmakers originally wanted to thwart. Take "zero tolerance" policies mandating automatic suspension of students for the worst offenses. These proliferated in the wake of Congress's 1994 Gun-Free Schools Act, which required school districts to boot out for a full year students caught with firearms. Many state and local boards, fearful that the federal law and the growing public clamor for safe schools could spawn a new generation of future lawsuits, fell into a kind of bureaucratic mania. Why not require suspension for *any* weapon—a nail file, a plastic Nerf gun? Common sense went out the window, and suspensions multiplied.

Other districts wrote up new anti-weapon codes as precise and defensive as any corporate merger agreement. These efforts, however, ended up making educators look more obtuse. When a New York City high school student came to school with a metal-spiked ball whose sole purpose could only be to maim classmates, he wasn't suspended: metal-spiked balls weren't on the superintendent's detailed list of proscribed weapons. Suspend him, and he might sue you for being arbitrary and capricious.

Worse, the influence of lawyers over school discipline means that educators speak to children in an unrecognizable language, far removed from the straight talk about right and wrong that most children crave. A sample policy listed in "Keep Schools Safe," a pamphlet co-published by the National Attorneys General and the National School Boards Association (a partnership that itself says much about the character of American school discipline today), offers characteristically legalistic language: "I acknowledge and understand that 1. Student lockers are the property of the school system. 2. Student lockers remain at all times under the control of the school system. 3. I am expected to assume full responsibility for my school locker." Students correctly sense that what lies behind such desiccated language is not a moral worldview and a concern for their well-being and character but fear of lawsuits.

When educators aren't talking like lawyers, they're sounding like therapists, for they've called in the psychobabblers and psychologists from the nation's ed schools and academic departments of psychology to reinforce the attorneys in helping them reestablish school discipline. School bureaucrats have been falling over one another in their rush to implement trendy-sounding "research-based programs"—emotional literacy training, anti-bullying workshops, violence prevention curriculums, and the like—as "preventive measures" and "early interventions" for various school discipline problems. Of dubious efficacy, these grimly utilitarian nostrums seek to control behavior in the crudest, most mechanical way. Nowhere is there any indication that adults are instilling in the young qualities they believe in and consider integral to a good life and a decent community. Kids find little that their innate sociality and longing for meaning can respond to.

Typical is "Second Step," a widely used safety program from a Seattle-based nonprofit. According to its architects, the goals of "Second Step" are "to reduce impulsive and aggressive behavior in children, teach social and emotional skills, and build self-esteem." Like many such therapeutic programs, it recommends role-playing games, breathing exercises, and learning to "identify feelings," "manage anger," and "solve problems." The universal moral values of self-control, self-respect, and respect for others shrink to mere "skills," as scripted and mechanical as a computer program.

In this leaden spirit, the National Association of School Psychologists newsletter, *Communiqué*, proposes a "Caring Habit of the Month Adventure," a program now in use in Aliquippa Middle School near Pittsburgh. Each month, school officials adorn school hallways with posters and stickers that promote a different caring habit or "skill." The skittish avoidance of moral language is a giveaway: this is a program more in love with behavioral technique than inducting children into moral consciousness. It's not surprising to find that *Communiqué* recommends dedicating a month to each "skill," because "[r]esearchers say a month is about the length of time it takes to make a habit out of consistently repeated action."

The legal, bureaucratic, and therapeutic efforts make up what Senator McCain would call an "iron triangle," each side reinforcing the others. Consider the fallout from last year's Supreme Court decision *Davis v. Monroe County School District*, which held that

The Promise of Alternative Schools

There's something legislators can do to give principals greater control over school discipline: encourage the creation of alternative schools for violent and disruptive kids.

Most educators estimate that between 5 and 10 percent of their students are the really "bad" kids who take up most of their disciplinary energies. Having the option of sending them to an alternative placement is a win-win-win situation. Principals and teachers escape the stranglehold that these students exercise over the entire school. The diverted kids often wind up in highly structured, small schools with low student-teacher ratios—just the sort of environment they seem to benefit from most. And since many kids suspended for a year for carrying a gun or for getting into a nasty fight would otherwise leave the classroom for the streets, where hardened criminals play teacher, the community wins too: alternative schools keep these kids from learning larceny and assault, and if they're set up with the right academic standards, they actually can teach them English and math.

With schools handing out automatic one-year suspensions to a growing number of kids for weapons and drug violations, more states and districts have begun to recognize the potential of alternative placement. In 1997 and 1998, the National Center for Education Statistics estimates, 43 percent of kids facing mandatory suspensions for guns or drugs wound up in alternative programs. At least 11 states now require some sort of alternative placement. In perhaps the most ambitious initiative, Georgia requires all of the state's 180 school districts to affiliate with already-existing alternative schools to handle the toughest discipline cases. Houston has contracted out at least one alternative school to a private company called Community Education Partners. The early results look promising: the average student enrolled for a year gains two years in reading and math scores, and behavior problems clear up noticeably.

Unfortunately, the term "alternative" is so elastic that it will remain nearly impossible to get a clear picture of what's working—if anything is—for the most difficult students. Some of the programs calling themselves "alternative" are not truly academic and provide mostly vocational training or squishy life-skills instruction, or some combination of the two. The City as School in Buffalo, for example, requires internships in theater or "community action"—protesting, in other words.

Alternative schools have their critics. Some take the shortsighted view of one Tennessee legislator that creating new schools "for people who won't behave" is "extreme coddling." On the other side, some child advocates eye alternative schools as punitive warehouses or a feeder system to the jails. But in truth, it's the regular schools that are preparing some of our most difficult kids for jail.

THE BRIDGEMAN ART LIBRARY

Therapeutic psychobabble is no substitute for a clear and confident moral message.

school districts could be liable for damages resulting from student-on-student sexual harassment. Now every school district in the country is preparing an arsenal to protect itself against future lawsuits: talking to lawyers, developing bureaucratic policies, and calling in therapeutic consultants or even full-time "gender specialists" to show a "proactive" effort to stamp out harassment. Experts at universities across the U.S. are contentedly churning out the predictable curriculums, with such names as "Flirting and Hurting" and "Safe Date," as cloying and suspect to any normal adolescent as to a grownup.

The full consequence of these dramatic changes has been to prevent principals and teachers from creating the kind of moral community that is the most powerful and dependable guarantor of good discipline ever devised. When things work as they should—in the traditional manner familiar all over the world and across the ages—principals forge a cohesive society with very clear shared values, whose observance confers a sense of worth on all those who subscribe to them. People behave morally primarily because they assent to the standards of the group, not because they fear punishment. A community of shared values cannot be legalistic or bureaucratic or based on moronic behavior exercises; it must be personal, enforced by the sense that the authority figure is protective, benevolent, and worthy of respect.

That's why good principals have to be a constant, palpable presence, out in the hallways, in the classrooms, in the cafeteria, enforcing and modeling for students and staff the moral ethos of the school. They're there, long before the school day begins and long after it ends; they know students' names, joke with them, and encourage them; and they don't let little things go—a nasty put-down between students, a profanity uttered in irritation, even a belt missing from a school uniform. They know which infraction takes only a gentle reminder and which a more forceful response—because they have a clear scale of values and they know their students. They work with their entire staff, from teachers to bus drivers, to enlist them in their efforts.

For such principals, safety is of course a key concern. Frank Mickens, a wonderful principal of a big high school in a tough Brooklyn neighborhood, posts 17 staff members in the blocks near the school during dismissal time, while he sits in his car by the subway station, in order to keep students from fighting and bullies from picking on smaller or less aggressive children. Such measures go beyond reducing injuries. When students believe that the adults around them are not only fair but genuinely concerned with protecting them, the school can become a community that, like a good family, inspires affection, trust—and the longing to please.

But how can you create such a school if you have to make students sit next to felons or a kid transferred to your school because he likes to carry a box cutter in his pocket? June Arnette, Associate Director of the National School Safety Center, reports that, after Columbine, her office received numerous e-mails from students who said they wouldn't bother reporting kids who had made threats or carried weapons because they didn't think teachers or principals would do anything about them. A number of studies show that school officials rarely do anything about bullies.

How can you convince kids that you are interested in their well-being when from day one of the school year you feel bureaucratic pressure to speak to them in legalistic or quasi-therapeutic gobbledygook rather than a simple, moral language that they can understand? How can you inspire students' trust when you're not sure whether you can prevent a kid from wearing a WHITE POWER T-shirt or stop him from cursing at the teacher? It becomes virtually impossible, requiring heroic effort. Even when good principals come along and try to create a vibrant school culture, they are likely to leave for a new job before they have been able to effect any change.

"'Don't touch anyone. Mind your own business,' one New York City elementary school principal summed up."

Since heroes are few, most principals tend to become what John Chubb and Terry Moe in *Politics, Markets and American Schools* call "lower level managers," administering decisions made from above. Teachers often grumble that principals, perhaps enervated by their loss of authority, retreat into their offices, where they hold meetings and shuffle papers. It's not that they don't make a show of setting up "clear rules and expectations," as educators commonly call it, but they are understandably in a defensive mood. "Don't touch anyone. Mind your own business," was the way one New York City elementary school principal summed up her profound thinking on the subject.

In tough middle and high schools presided over by such functionaries, this defensive attitude is pervasive among teachers. "Protect yourself," one New York City high school teacher describes the reigning spirit. "If kids are fighting, stand back. Call a supervisor or a security guard. Don't get involved." That teachers are asked to rely for the safety of their students on security guards—figures unknown to schools 30 years ago—says much about the wreckage of both adult-child relations and of the school as a civil community. It also serves as a grim reminder that when adults withdraw from the thousand daily encouragements, reminders, and scoldings required to socialize children, authoritarian measures are all that's left.

The effect of the collapse of adult authority on kids is practically to guarantee their mistrust and alienation. Schools in this country, particularly high schools, tend to become what sociologist James Coleman called an "adolescent society," dominated by concern with dating, sex, and consumerism. The loss of adult guidance makes it certain that adolescent society—more powerful than ever, if we're to believe TV shows like *Freaks and Geeks* and *Popular*—will continue in its sovereignty. Quaking before the threat of lawsuits and without support from their superiors, educators hesitate to assert the most basic civic and moral values that might pose a challenge to the crude and status-crazed peer culture. When they do talk, it is in a language that doesn't make any sense to kids and cannot possibly compel their respect.

Though under the current system it's easy to lose sight of this truth, there's nothing particularly complex about defining moral expectations for children. At one successful inner-city middle school I visited, a sign on the walls said, WORK HARD, BE KIND; BE KIND, WORK HARD: and if the school can instill just those two values, it will have accomplished about all we could ask. Educators who talk like this grasp that a coherent and meaningful moral environment is what socializes children best. Paul Vallas, CEO of the Chicago public schools, has introduced character education, community service requirements, and a daily recitation of the Pledge of Allegiance. "It's the Greek in me," explains Vallas. "I take Aristotle's approach to education. We are teaching kids to be citizens." Two and a half millennia later, Aristotle's approach remains a surer recipe for disciplined schools than all the belawyered conduct codes and all the trendy life-skills programs that the courts and the bureaucrats have given us. ■

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Bring Back Sportsmanship

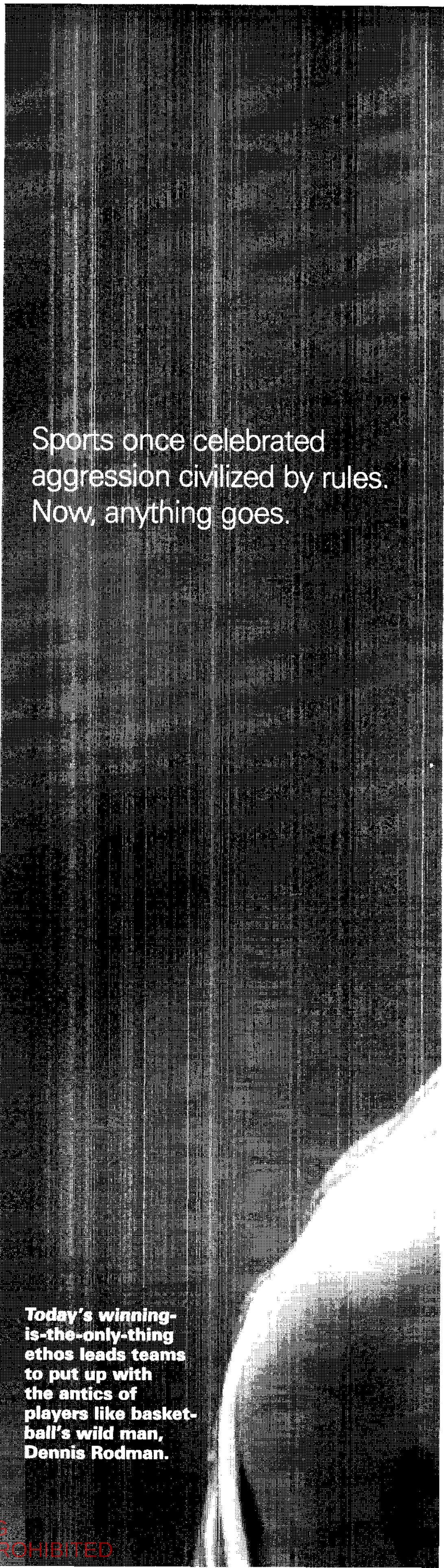
Brian C. Anderson and Peter Reinharz

These days, athletes have moved from the sports section to the front pages of our daily newspapers—not for their heroic feats on the playing field but because of their thuggish and even felonious behavior. Think of boxer Mike Tyson, who bit a chunk out of an opponent's ear in the ring and raped a fan out of it. Think of Tonya Harding having rival skater Nancy Kerrigan knee-capped and Yankee Darryl Strawberry's countless suspensions for drugs. Think of tennis bad boy John McEnroe, with his trademark profanity-laced tantrums on the court. Sports fans can list hundreds more examples, amounting not to a series of isolated lapses but an unmistakable pattern.

And a deeply disturbing pattern. Once upon a time, after all, the public—and coaches and team owners too—expected athletes to stand for certain ideals of civility, self-mastery, respectability, and fair play that provided an example for all citizens. But when pro football players are implicated in brutal murders, or a millionaire basketball star assaults his coach—such incidents now seem to crop up weekly—it's a sign that something has gone awry in sports and in the culture as a whole. It suggests, too, that sports have become not just a reflection of cultural decline but an active agent of debasement.

Sports have always been a repository of a culture's values, mirroring and shaping society. At least since the time of *The Iliad*, sports have been a kind of ritual with a meaning. They have simultaneously celebrated male (and today even female) aggression and competitiveness along with civilization's triumph of channeling and containing that aggression within elaborate rules and ceremonies. As any true fan will tell you, the rules are crucial: "sports events do not really exist at all unless there is a certain order and fairness—justice—in each event," writes social thinker and football enthusiast Michael Novak in *The Joy of Sports*.

Respecting the rules was central to sports' most noble creation: the sportsman. Broadly, the sportsman exhibited sportsmanship: a code of conduct centered on fairness and on graciousness in winning and losing. Going further still, a real sportsman upheld certain standards of clean living, civility,



Sports once celebrated aggression civilized by rules. Now, anything goes.

Today's winning-is-the-only-thing ethos leads teams to put up with the antics of players like basketball's wild man, Dennis Rodman.

AP PHOTO/BETH A. KEISER

AP PHOTO

. . . **unlike football star Ray Lewis (above), recently arrested on murder charges in Atlanta.**

and decorum off the playing field; as a figure of public respect, he was respectable.

Journalist Glenn Dickey once compared the sportsman with the Western hero of the movies: both were chaste, kids loved them, and—Dickey cynically added—both were myths. Of course, Dickey is partly right: many athletes never lived up to the image. Baseball great Babe Ruth, for one, was a notorious boozer and womanizer, and lots of athletes have cheated or have been sore losers. But what's important, what Dickey ignores, is that the ideal of the sportsman inspired athletes and spectators as a standard to live up to, despite occasional lapses, for most of the nineteenth and twentieth centuries.

And some sports stars really did exemplify the ideal fully, like New York Yankee outfielder Joe DiMaggio. Popular historian David Halberstam describes DiMaggio, who retired in 1953 and died last year, as "the perfect Hemingway hero," exhibiting "stoic grace" under pressure, modest, reserved, meticulous about his appearance—he always came to the ball park dressed in a custom-tailored suit with a white shirt and tie—and always respectful toward fans, other players, and even the press. Nor was DiMaggio alone: Jackie Robinson and Ted Williams in baseball, Oscar Robertson in basketball, Sammy Baugh in football, and other successful athletes behaved with dignity and grace in and out of uniform. These were larger-than-life figures, whom kids (and grownups, too) could admire.

Though thankfully the sportsman hasn't completely vanished, he is an endangered species today. Three sweeping changes, all beginning in the sixties, have hastened his decline.

First is the elevation of winning above the values of sportsmanship. The prime mover of this change, ironically, was himself a great sportsman: Vince Lombardi, the legendary coach of pro football's Green Bay Packers during their championship seasons in the sixties. Lombardi's famous dictum, "Winning isn't everything; it's the only thing," had destructive consequences its author never intended.

Because Lombardi's win-or-nothing imperative brought success on the field, it swept though American sports, elbowing aside the ideal of the sportsman. It even had a huge effect on school sports. Writer James Michener lamented in his mid-seventies book *Sports in America* that coaches were applying it to kids, robbing youth sports of civility and fun. Michener tells the troubling story of a Kentucky high school that showcased students who quit its football team in a conspicuous "hall of shame," humiliating the teens in front of their peers. Author Buzz Bissinger's 1991 *Friday Night Lights* vividly describes how the obsession with winning is so powerful in a West Texas high school that it has shattered some young football players' lives.

Today's parents seem squarely in Lombardi's camp, too. "I've seen parents screaming at their kids, pushing them too hard to perform; children fighting in games, incited by their parents; kids crying on the mound because their parents embarrassed the stew out of them," the head of a youth group told the *Christian Science Monitor* earlier this year. As the *Monitor* reports, a few concerned Little Leagues have tried to restrain out-of-control parents: parents in Los Angeles, for example, must sign a promise of good behavior, and in Jupiter, Florida, parents must take a good-sportsmanship class before their children even can play. One Staten Island father doesn't seem to have learned the lesson correctly, however: complaining last month that the coach's "Vince Lombardi philosophy" of winning at all costs had traumatized his ten-year-old hockey-playing son, he broke the coach's nose with a hockey stick.

The pressure to win at all costs has led many athletes to cheat by pumping up their performance with banned substances like anabolic steroids. Illegal drug–enhanced athletic feats have become epidemic in Olympic competition, and nearly half the respondents to a recent survey of college athletes by the National College Athletics Association claimed that the use of banned substances was a significant problem in college sports.

Vince Lombardi, seeing the considerable damage his winning-is-the-only-thing ethic had wrought, renounced it shortly before his death in 1970: "I wish to hell I'd never said the damned thing. I meant the effort. . . . I meant having a goal. . . . I sure

Baseball great Jackie Robinson (left) exemplified the ideal of sportsmanship both to kids and to grownups . . .

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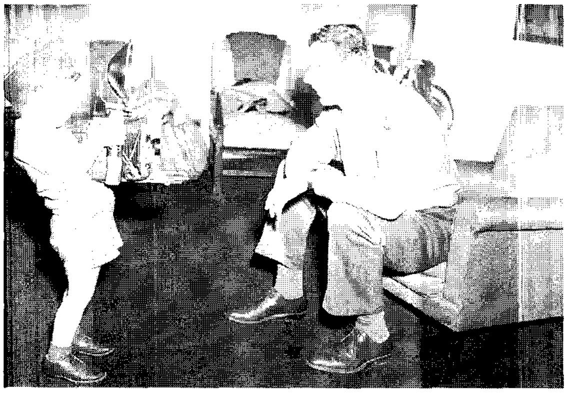

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Whereas baseball hero Joe DiMaggio (above) exhibited stoic grace under pressure, the NHL's gladitorial goons get ever closer to maiming each other in the heat of competition (right).

as hell didn't mean for people to crush human values and morality."

The second solvent that has eaten away sportsmanship is money, lots of it, as TV turned sports into big business in the late sixties. As historian Stephen Fox recounts, television contracts for Major League Baseball, totaling $16.6 million in 1970, exploded to nearly half a billion dollars by the nineties. Pro football's TV revenues passed the $2 billion mark by the early 1980s. Players' salaries, given a huge boost by free agency, rocketed upward: the average baseball player's pay, just $19,000 a year in 1967, was over $1.3 million by 1997, with the average National Basketball Association player bringing in $2.2 million by the late nineties. Other sports, including college athletics, began generating big entertainment money, too.

The flood of money strengthened Lombardi's winning-is-everything imperative, as teams grasped that victory brought high TV ratings and high revenues. Owners cared whether a given player helped the team win games and bring in cash, not whether he showed sportsmanship. So teams began to put up with the likes of the NBA's pierced and tattooed Dennis Rodman, whose rebounding skills helped the Chicago Bulls win three championships but whose offensive antics included flagrant fouls and verbal abuse of officials on the court and transvestism and a squalid, much-publicized fling with Madonna off it.

Professional athletes of times past retained some of the amateur sportsman's ethic of playing for love of the game, not just for pay. Baseball's last .400 hitter, Ted Williams, for instance, once gave part of his salary back to the Boston Red Sox after he had a subpar season. That ethic is a far cry from today's millionaire basketball stars who boycott training camp because a rival is suddenly making more money, or to baseball greats who charge a fee for an autograph.

The third solvent that corroded the ideal of sportsmanship was the counterculture. Here the key transitional figure was Joe Namath, the dazzling quarterback of the National Football League's New York Jets. The victory of the Namath-led Jets over the favored Baltimore Colts in the 1969 Super Bowl was heavily symbolic. Colts quarterback Johnny Unitas was a devout and temperate Catholic, who lived with his wife and four kids in the Baltimore suburbs—the very model of civility and respectability. Hard-drinking playboy Namath, who lived in a penthouse on Manhattan's Upper East Side, reportedly bedded a different starlet every week. By besting Unitas, Namath brought sports into a Brave New World, where an "if-it-feels-good-do-it" ethos didn't preclude being a winner (see "Who Lost Super Bowl III?" Summer 1995). As sportswriter Glenn Dickey sums up: "Namath . . . publicly defied all the sexual taboos of sports and thrived."

Namath ushered in a libertine era in sports, as teams dropped any pretense of enforcing sexual decorum, or indeed any decorum. By the mid-seventies, the professional athlete became a sexual conquistador, surrounded by groupies like a rock star. Basketball's only player to score 100 points in a game, the late Wilt "the Stilt" Chamberlain, scored plenty off court as well, boasting 20,000 sexual partners during a long career. In 1991, basketball superstar Magic Johnson retired from the Los Angeles Lakers after announcing that he had contracted HIV from having had sex, he claimed, with countless women. The inimitable Dennis Rodman crudely but vividly describes today's groupie scene in his "book," *Bad As I Wanna Be*—a title that can serve as sportsmanship's epitaph. "Management, coaches, the league—they know guys are going to go out and f**k," he boasts. "They're going to find girls that are sexy as hell, good-looking, sweet—all that. And they're not going to think for a second about the consequences."

The worst consequence has been the breathtaking number of illegitimate children pro athletes have sired, as Grant Wahl and L. Jon Wertheim document in a much-discussed 1998 *Sports Illustrated* article. The NBA has the most sexually irresponsible athletes—perhaps, they conclude, because so many of the players hail from single-parent, inner-city families, where live-in fathers are few. One sports agent who spends most of his time defending paternity suits estimates that there are easily more illegitimate kids born to current NBA players than there are players in the

AP PHOTO/VANCOUVER PROVINCE-GERRY KAHRMANN league. Cleveland Cavalier power forward Shawn Kemp, 28 and unmarried when the *SI* article appeared, led the list with seven illegitimate children born to six different women. Some of the players have nothing to do with their kids beyond court-mandated child-support payments. Len Elmore, a former NBA player, worked a while as a sports agent, but quit in disgust because of the players' "lack of responsibility."

The counterculture's influence, intensified by the street-hardened backgrounds of increasing numbers of pro athletes, made drug use common in sports, too. By 1982, says current NBA Commissioner David Stern, 75 percent of the league's players were using cocaine. At the same time, around 40 percent of the NFL's players were using it, too, according to former player Carl Eller, an ex-junkie himself. Because of public disgust and the obvious drug-induced deterioration of many players' skills, each of the major sports leagues began to implement drug policies of varying degrees of effectiveness in the eighties. In the fall of 1988, for example, 24 NFL players, including superstar Lawrence Taylor, received suspensions for substance abuse after failing random drug tests. Several NBA stars—including crowd-pleaser Michael Ray Richardson—wound up booted out of the league permanently for repeated drug violations. As a result, nobody thinks that the substance-abuse problem of sports is as bad today as it was 15 years ago—but no one thinks it is solved, either.

In place of the sportsman, the gladiator has appeared, substituting naked aggression for the

Tennis bad boy John McEnroe's profanity-laced tirades against officials and sore-loser tantrums made him the antithesis of the sportsman.

sportsman's fidelity to rules, restraint, and civility. Ferocity has invaded even kids' sports, necessitating police intervention. In 1997, for example, 18-year-old Gilbert Jefferson, a New Mexico football player, received a six-month jail term for attacking a referee from behind after getting kicked out of the game for unsportsmanlike conduct. Chicago police last year charged a teen with aggravated battery for a vicious hit in a high school hockey game that left a 15-year-old boy paralyzed. In Texas, 18-year-old Tony Limon, a star basketball player for South San Antonio High School, recently received a five-year prison term for aggravated assault: he had elbowed an opponent so violently that he had broken his nose and given him a serious concussion. Limon's coach reportedly helped precipitate the assault. "He told me it's about time someone shed blood," the teen claimed.

The kids, though, are just following the lead of the pros. Each National Hockey League team, for example, now employs what sportswriters and fans call a "goon," a player whose job is to intimidate the other team's stars. The goons of rival teams regularly clash in gory punchouts. The league has tolerated the violence for 30 years, because many fans revel in it. But the gladiators, bigger than ever, get ever closer to killing each other. In a chilling incident in February, Boston Bruins tough guy Marty McSorley downed Vancouver Canucks goon Donald Brashear with a hockey stick to the temple. Brashear suffered a bad concussion and has yet to return to the ice. McSorley now faces assault charges in Vancouver.

The rough stuff has roiled many other sports, too. In the NBA a few Decembers back, New York Knicks' star Latrell Sprewell, then with the Golden State Warriors, choked and threatened to kill his coach P. J. Carlesimo after his boss "disrespected" him—an underclass response, notwithstanding Sprewell's $32 million contract. Similarly, "trash talking"—decidedly unsportsmanlike insults by opposing players—provoked so many fights a few years ago that NBA officials had to crack down on it.

The NFL has had to police the recent outbreak of unnecessary roughness and late hits that threaten to maim players. But many of the league's players are now doing their maiming off the field. Jeff Benedict and Don Yeager's new book, *Pros and Cons: The Criminals Who Play in the NFL*, lists the league's known felons. Here's just a smattering: Cornelius Bennett (rape and sexual assault); Cortez Kennedy (domestic violence); Andre Rison (aggravated assault); Deion Sanders (aggravated assault and battery). Since 1997, law-enforcement officials have arrested more than 100 of the NFL's 2,000 or so players—average salary $600,000—for violent crimes.

Like O. J. Simpson before them, two of the league's current star players are now up on murder charges: Rae Carruth, wide receiver for the Carolina Panthers, for allegedly masterminding the fatal drive-by shooting of his pregnant girlfriend; and Ray Lewis, all-pro linebacker for the Baltimore Ravens, for allegedly stabbing to death two men outside an Atlanta bar with the help of two accomplices. The league's response? "We have fewer incidents involving NFL players than society at large has," NFL commissioner Paul Tagliabue tepidly observes in response to the two crimes. The league needs to answer why they hire individuals prone to commit violent felonies in the first place.

At the furthest extreme from the ideal of the sportsman are the gladiators of professional wrestling. The World Wrestling Federation has become wildly popular over the last decade by producing incredibly bloody and crude nightly matches. Its sky-high ratings may yet lead to its shock values infiltrating other sports: WWF's president Vince McMahon plans to launch a pro football league to rival the NFL—the XFL. The prospect fills *New York Post* sportswriter Phil Mushnick with disgust: "Given McMahon's record, the X represents a blend of X-treme violence and X-rated conduct." The XFL will sell itself, Mushnick believes, "through the careful removal of whatever civility remains in the NFL's product."

Emulating their heroes on the field, fans have become more uncivil and violent, too. Behaving like British soccer hooligans, rioting spectators at a December San Diego Charger football game attacked security workers and fellow spectators. Riots have broken out after championship victories in several cities. Speaking to a San Diego newspaper, John Byrnes, president of the Florida-area Center for Aggression Management, says that fans are "vicariously having adrenaline rushes through the players." As sports become more violent, Byrnes stresses, "it's no shock to me that it is occurring more in the stands."

BETTMANN/CORBIS

Former Red Sox slugger Ted Williams, seen here crossing the plate after homering in his final at-bat, once gave back part of his salary after a subpar season.

AP PHOTO

Sportsmanship stands little chance of coming back as long as school officials forget that school sports should be as much about teaching sportsmanship as teaching skills, and as long as big league teams and officials aren't willing to enforce sportsmanship's values vigorously. Sports bosses' recent ham-handed response to Atlanta Braves pitcher John Rocker's rant against New York's wealth of homosexuals, felons, welfare moms, and immigrants shows how far they are from remembering what those values are. After yawning over violence and felonies, they impose a 73-day suspension and a $20,000 fine over *this*? And they send Rocker to psychological counseling, as if he were crazy rather than merely loutish? Clearly what agitated them was his insult to political correctness rather than his outrageous offense against sportsmanlike civility, which they should have punished with the explanation that sportsmen just don't behave like this. But they seem no longer to have the appropriate moral vocabulary at their command.

Still, one can point to a few hopeful signs. First, authentic sportsmen still grace the world of professional athletics with their example—baseball's iron man Cal Ripken, golfing phenomenon Tiger Woods, and tennis great Pete Sampras, to name three, and, until recently, Michael Jordan, quarterback John Elway, and the late Arthur Ashe. Second, the first stirrings of a backlash may be occurring, most notably in Coca-Cola's withdrawal from sponsorship of the WWF in disapproval of its nihilistic fare (see "Coke Does It Right," Soundings, Winter 2000). Plenty more of the same condemnation is in order, not just from sponsors but from fans, the press, and the parents of young athletes. It's the kind of pressure that might make sports once more a powerful force that uplifts rather than debases our culture. ■

How Charlotte Is Revolutionizing Public Housing

Howard Husock

Four years on, the 1996 Welfare Reform Act has brought encouraging results that even most of its early supporters could scarcely have hoped for: welfare rolls cut in half and former welfare mothers moving into the workforce with the seeds of a new work ethic and fresh optimism about the future. Yet one thing threatens, if not to derail welfare reform, at least to slow its progress and blunt its full beneficial impact: the nation's vast public housing system, sheltering exactly the same people whom welfare reform targets—unwed mothers, whose fatherless families have proved incubators of social pathology. Though welfare reform is pushing many public housing residents into the workforce, public housing's perverse incentive structure will probably impel many of them to settle permanently for a first, low-wage job instead of embracing upward mobility wholeheartedly. And though scattering these families, as some housing reformers have urged, surely can't by itself change their values, it's also true that concentrating them in permanently subsidized communities, where illegitimacy remains the unquestioned norm and work isn't seen as leading anywhere, can only make it harder for them to succeed.

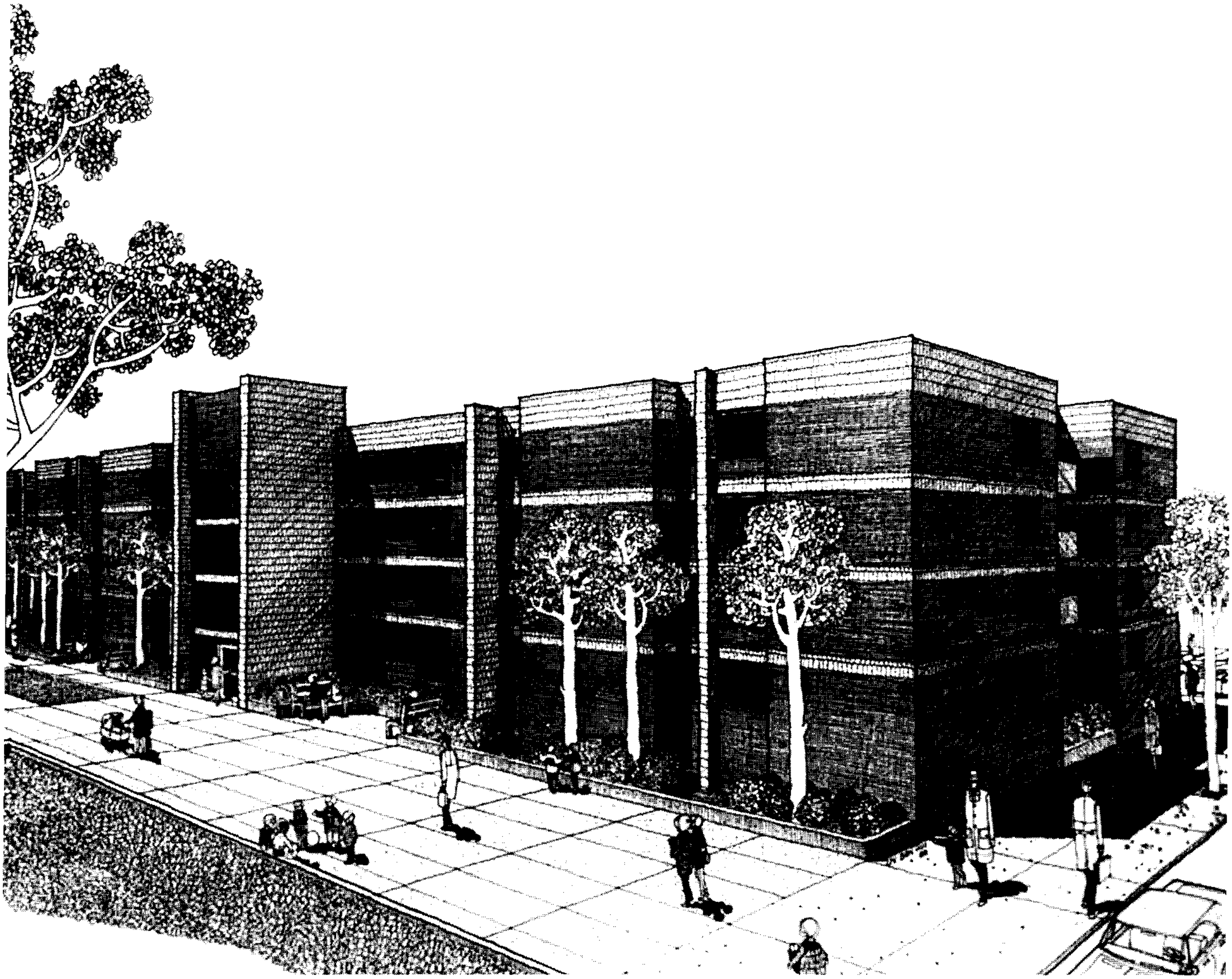
That's why what's happening in Charlotte, North Carolina, is so important. With little fanfare, Charlotte's public housing authority is providing a blueprint for transforming the nature of public housing or even, over the long term, phasing it out. The key to Charlotte's new approach is time limits. This simple idea promises to make public housing more like the new welfare system—short-term aid, provided on the assumption of the recipient's serious effort to improve her situation. "What we're saying over and over again to our residents," explains Charlotte Housing Authority chief executive officer Harrison Shannon Jr., "is 'in, up, and out.'" Charlotte, in other words—along with a tiny handful of the nation's 3,200 public housing authorities—is thus seeking to make public housing policy reinforce welfare reform's message of self-reliance, rather than weaken it.

Getting in synch with welfare reform, this housing authority now makes assistance temporary, not a way of life.

LA GUARDIA AND WAGNER ARCHIVES, LA GUARDIA COMMUNITY COLLEGE/CITY UNIVERSITY OF NEW YORK (4)

A time limit for public housing, extending welfare reform's ethic of personal responsibility, represents an historic break with the fundamental misconception that inspired the construction of public housing from the start. Public housing grew out of the idea that the private housing market could never provide decent and sanitary housing for those of modest means. In this conception—articulated by Catherine Bauer in her influential 1936 *Modern Housing* and embraced by President Franklin D. Roosevelt in the National Housing Act of 1937—public housing authorities were to run apartment buildings as permanent public utilities, with publicly financed construction keeping rents low.

It's hard to exaggerate how mistaken this idea was, even when Bauer and other advocates first formulated it. From the end of the Civil War up until 1937, private builders had erected a dizzying variety of housing for the striving poor as they improved their condition over time (see "We Don't



These architect's drawings depict the public housing dream: that new, clean buildings with airy green spaces would uplift the condition of the poor. It was misguided from the start.

Need Subsidized Housing," Winter 1997). Chicago witnessed the construction of 211,000 decent, inexpensive two-family homes during those years—21 percent of the city's total residences. Private builders fabricated no fewer than 300,000 affordable, livable row houses in Philadelphia during the five decades prior to 1930. To be sure, a temporary shortage of privately built housing after World War II meant that many blue-collar families briefly benefited from public housing. But dynamic postwar economic growth left Bauer's argument in tatters: two-income working families flocked to the economical, privately built subdivisions of the suburbs. Today, an astounding two-thirds of American households aren't renters at all—they own their own homes. It's hard to find evidence that the nation ever needed its public housing system.

As those working-class families headed for the suburbs in the fifties, public housing began its transformation into latter-day poorhouses. Federal legislation authored by the late Massachusetts

Republican senator Edward Brooke accelerated and intensified the change. The 1968 Brooke Amendment, seeking to protect low-income earners from local housing authority rent hikes, mandated that public housing households pay no more than one-third of their income in rent—but it also required them to pay no less than that third. This law should claim a prize for unintended consequences. It drove from public housing the remaining working families, whose rents suddenly shot up now that they had to pay a third of their incomes to the housing authority. They could now do better in the private housing market. At the same time, the Brooke Amendment opened the door wide to single mothers on public assistance; they'd pay very little.

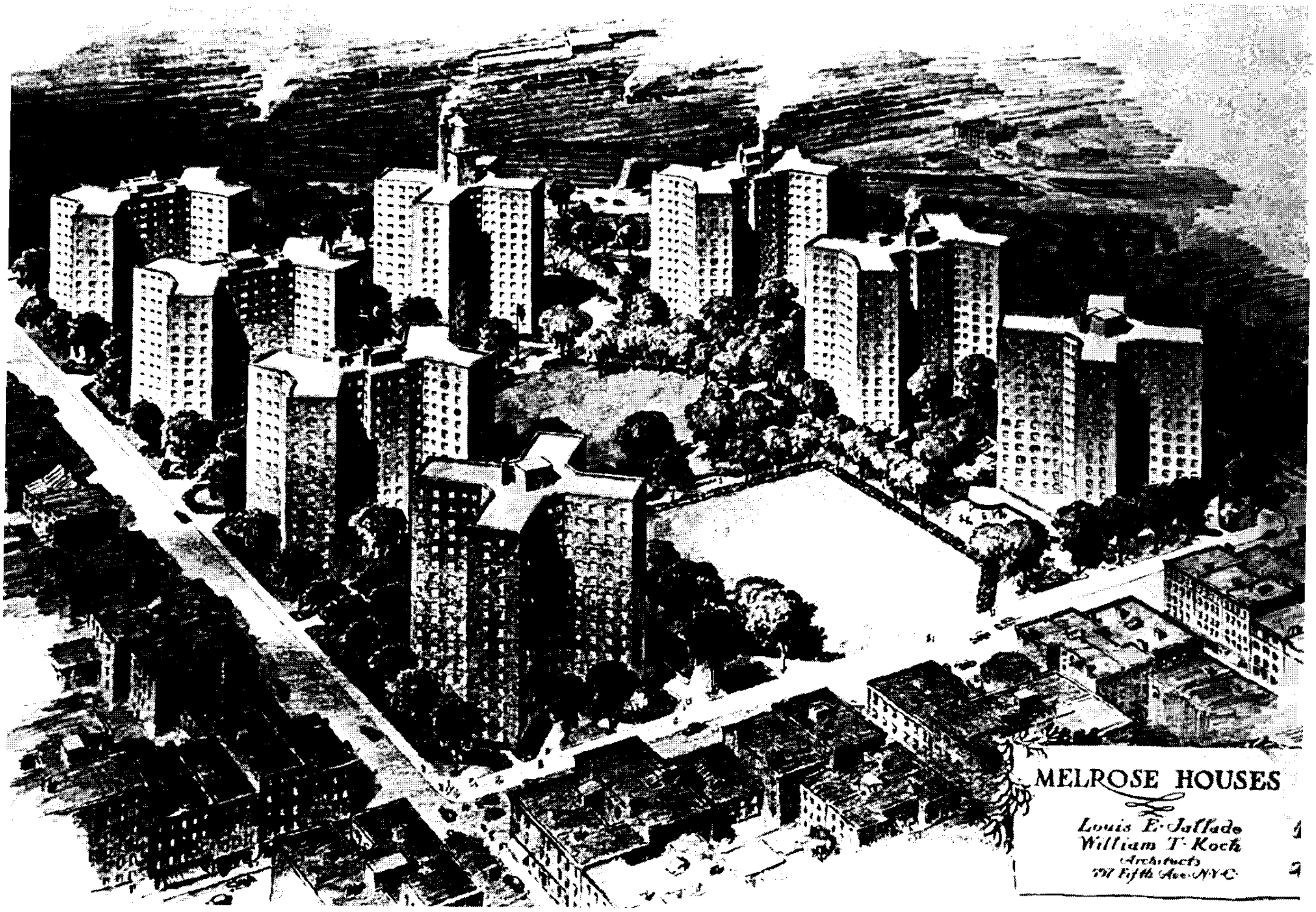
If always unnecessary, public housing now became truly pernicious. It became a crucial part of the welfare-support network that abetted young women in having illegitimate children. It told young women that if they had a baby out of wedlock, they could leave home and set up their own apartments on the public dime. In a 1989 HUD survey, the most frequent reason single mothers gave for moving into public housing was "to establish own housing." Public housing's complicity in fostering single-parent families is so troubling because of what we now know about illegitimacy. Having a child out of wedlock often sentences the mother to poverty: 68 percent of single-parent families are poor, and single parents head 90 percent of black families in poverty. Worse, the children in those families suffer dismayingly high levels of social pathology, from school dropout to criminality (see "The Real Welfare Problem Is Illegitimacy," Winter 1998).

Today, 40 percent of all low-income single-parent families—26 percent of all poor families in the country—reside in 507,000 of the nation's 1.3 million public housing apartments and more than 1 million of the 2.7 units of other publicly subsidized housing (mostly paid for with federal Section-8 housing vouchers). Single mothers and their kids occupy 39 percent of all public housing apartments, the biggest demographic group in the system. Only the elderly, occupying 32 percent, come close. And since the elderly usually live together in buildings set aside just for them, low-income single-parent families dominate many housing projects.

Public housing is where the long-term welfare recipients wound up and stayed. In Charlotte's large projects, 40 percent of households have stayed five years or more; 20 percent have stayed ten years or more. Some dependent families have lived in Charlotte's system for three generations. It's little different elsewhere. The average stay of tenants in public housing nationally is 80 months; in New York, 99 months—just over eight years. And because 9 percent of tenants leave every year, those averages mask a sizable core of households that stay even longer.

"The average stay of tenants in public housing nationally is 80 months; in New York, 99 months—just over eight years."

Charlotte's time limits propose to change all this radically. The city's public housing authority currently enrolls more than 500 of its 1,800 nonelderly households in its "Transitional Family" program, an innovative initiative launched in the late 1980s that combines voluntary time limits with counseling, education, and financial management to encourage public housing residents to become self-sufficient. To get residents to agree to the time limits and take other real steps toward self-improvement, Charlotte offers a powerful incentive: newer, more desirable housing. The authority can get away with its system of incentives and disincentives because, as HUD rules have traditionally demanded, it still guarantees low-income residents public housing—but in its typically run-down, disorderly older projects, not in its nicest buildings. Any large-scale public housing authority in the country could easily follow Charlotte's lead in navigating creatively



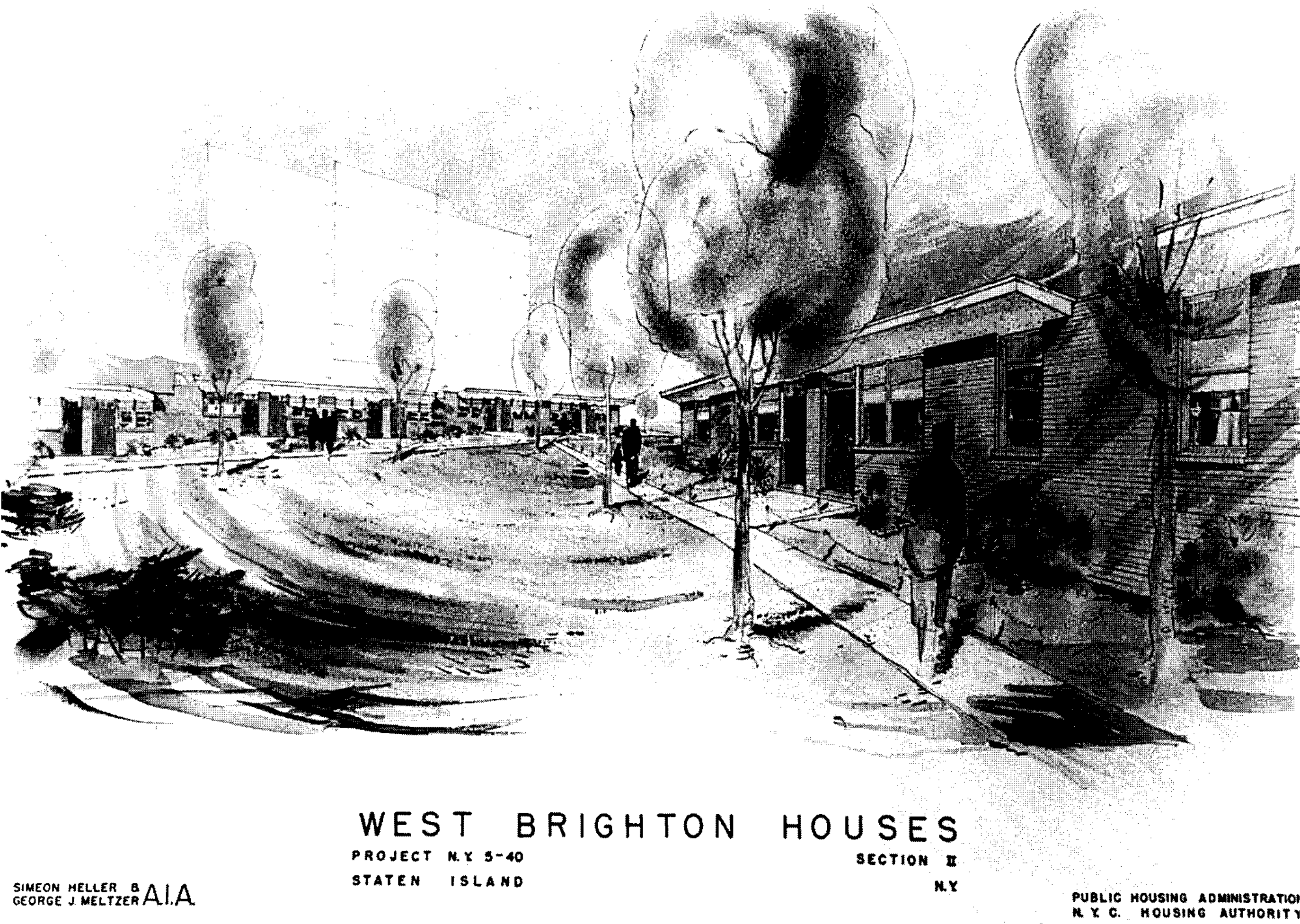
Public housing projects embodied Le Corbusier's architectural vision of the tower in a park with a vengeance. The promised utopia failed to materialize, however.

around HUD requirements.

A resident who wants to move up from the shabby, conventional projects into the much nicer, relatively new Victoria Square and Claremont complexes must accept a voluntary five-year limit on her tenure in public housing and must already have shown her seriousness about self-improvement by starting to work on her high school equivalency certificate or signing up for community college or job training courses. To remain in the nicer housing or to hope to move on to something better, she must meet regularly with a social worker, who makes sure she's working toward obtaining both employment and an education. If she isn't, the program sends her back to the less desirable traditional housing.

An interesting innovation: but Charlotte's experiment gets even more creative than this. To push residents even closer toward self-sufficiency, Charlotte takes advantage of HUD's multibillion-dollar public housing rebuilding project, Hope VI, in ways that the federal agency "absolutely never intended," as one candid HUD official admits, but that nevertheless are not forbidden.

The federal program, on its own terms, is decidedly unpromising. It frees up money to raze


WEST BRIGHTON HOUSES
PROJECT N.Y. 5-40
STATEN ISLAND
SECTION II
N.Y.
SIMEON HELLER & GEORGE J. MELTZER A.I.A.
PUBLIC HOUSING ADMINISTRATIO
N.Y.C. HOUSING AUTHORIT

Today's HUD fad for low-rise housing projects keeps alive the oft-disproved belief that the neighborhood shapes the behavior of the residents, rather than vice versa.

older, dilapidated public housing projects—usually forbidding high-rises—and to replace them with townhouses mixed in among single-family homes and middle-income apartments. Hope VI makes the erroneous assumption, which has typified the thinking of public housing advocates since the days of Catherine Bauer, that one's housing environment determines one's behavior. If only poor, dysfunctional families could live next door to striving, middle-income families, this assumption runs, the good example would rub off and inspire the poor to self-improvement. But this formulation gets things backward: it is far more likely that disordered families will drive good families to despair through their antisocial behavior than that good families will improve the behavior of the disordered. Good neighborhoods take root and blossom through the efforts of striving, upwardly mobile families who've sought to distinguish themselves, economically and spiritually, from those who don't share their upstanding values. Hope VI simply ignores this crucial insight.

Yet Charlotte has turned this dubious federal program to its own responsibility-building ends by using brand-new Hope VI apartments to reward residents who've taken big strides toward self-sufficiency. When Charlotte, using Hope VI funds, demolished its notorious Earle Village project just east of the city's downtown, it told longtime residents of the project that they would have no special entitlement to enter First Ward Place, the pleasant townhouse complex that was to replace Earle. Instead, to enter these new townhouses, not only would a resident have to have agreed to the five-year time limit, but she'd also have to have finished high school, shown that she'd held a job continuously for at least the past year, and agreed to work with a social worker to budget her funds with an eye to moving up and out. Again, failure to continue moving forward means a quick return to traditional public housing.

> **"Every dollar of subsidy given to low-income workers reduced their earnings from work by 80 cents."**

Charlotte rewards the most successful strivers with the best housing of all. The housing authority runs four air-conditioned apartment complexes in some of the city's choicest, most crime-free residential neighborhoods, in the vicinity of good schools—complexes built just with city funds and thus free from HUD regulations, including the Brooke Amendment's one-third-of-income rent rule. To qualify for these buildings, a participant must not only accept the five-year limit, have her high school diploma, and be working, but she must also agree to pay a flat-rate rent that will not go down even if she loses her job. In other words, she must give up the Brooke Amendment's safety net. If her income rises, the authority increases her rent but puts the extra money she's now paying into an escrowed savings account. When the participant "graduates," she can use the money to help pay rent in the private market or put a down payment on a house. Those who fail to graduate by the time their five years are up, though, go back to dreary traditional public housing.

Charlotte's innovative program has produced some striking successes that show how time-limiting public housing can strengthen welfare reform's message of self-sufficiency. Consider Greta Greer, who entered Charlotte's public housing system as a young welfare mother in 1993. In 1996, welfare reform pushed her into the workforce, where she landed a low-paying job as a day-care assistant. But public housing kept her horizons low. Why try to move up? After all, she had her apartment, and if she made more money, her rent would increase. She'd only get to keep 66 cents out of every additional dollar. So why bother?

Greer's example confirms an old social-science axiom about semi-dependency, familiar from the Seattle and Denver income maintenance experiments of the 1970s: permanent subsidies are demoralizing and limit the long-term earnings of low-income workers. The Seattle and Denver studies on the effect of a negative income tax found that every dollar of subsidy given to low-income workers reduced their earnings from work by 80 cents, compared with workers without the subsidy.

Charlotte's time-limit program replaced Greer's diminished expectations with an invigorating sense of possibility. Agreeing to time limits in 1998, she moved into a better apartment. With the program's help, she learned how to check her credit rating and started to clear up bad debts. The program also encouraged her to get computer training and helped her prepare a résumé. She managed to get a better job as a receptionist in a collection agency, making $10 per hour. Newly, confident, Greer began to interview in 1999 with several banks; First Union, one of Charlotte's largest employers, hired her. Greer now makes $13 per hour as an IRA specialist in the bank's investment department, has started a 401K plan, and is set to move her family out of public housing for their own home in a few months, three years before her five-year limit is up.

Greer's seemingly successful exit from Charlotte's public housing is far from unique. More than 400 residents have used the Transitional Families program to move out over the last five years; 125 have bought their first houses thanks to the program. Would these residents eventually have left Charlotte public housing under the impetus of welfare reform alone, without the additional push from the time-limit program? Perhaps: but it is more likely, as Greer's early semi-dependency shows, that even in a welfare-reform environment, an unreformed public housing system will keep people from being all they can be.

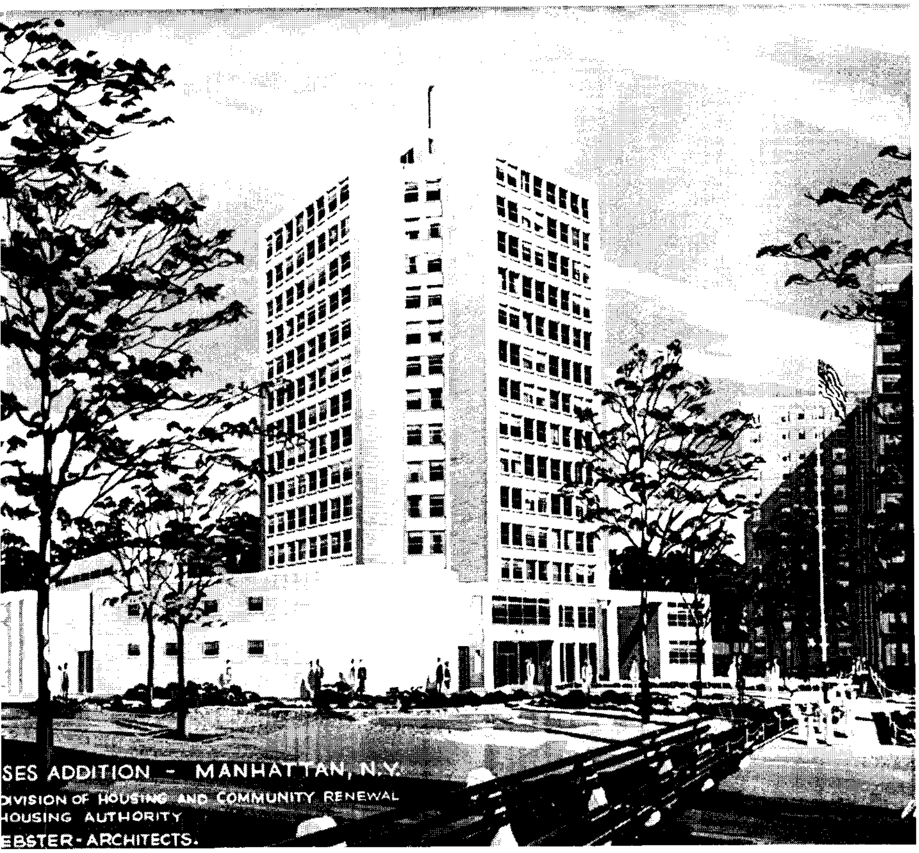
Charlotte officials candidly acknowledge the need to separate families by attitude and achievement. "We don't want people who are trying to improve themselves to have neighbors from hell," says housing authority head Harrison Shannon. Charlotte's Transitional Families program supervisor, Janet Lynch, notes that rather than drawing inspiration from hardworking neighbors, the non-working often try to undermine them. Cynthia Jackson, a public housing graduate, confirms it. "People were saying to me all the time, 'What are you doing? You'll never make it,'" she recalls. Lynch finds most inspirational those transitional families just starting the process of moving up—women who, still surrounded by the welfare culture, have made a commitment to change. "They form tight cliques for protection," Lynch observes. "They start off as 15 strangers in a room and form a real bond; they swap babysitting, trade clothes, and form friendships I think will last." It's a heartening process to watch: the formerly dependent becoming a community of self-help and upward mobility.

Doubtless, Charlotte could do more. The authority could, for example, forthrightly address the deepest problem of many program participants—having kids out of wedlock. Authority social worker Alicia Carr, for one, contends that many residents "aren't ready for marriage; they need to learn how to become independent and self-sufficient, first." But neither Carr nor the housing authority in general seems willing to ask whether these young women are ready for motherhood. Still, if one must choose between single mothers stuck in public housing and single mothers taking care of themselves and their families on their own, the choice is clear—all the more so if Charlotte's program helps discourage a new generation of single mothers by raising the aspirations of Greta Greer's children and the kids like them.

In Delaware, the state public housing authority has just taken Charlotte's principle to its logical—if radical—conclusion: it has just adopted a mandatory three-year time limit for all of its non-elderly residents. Granted, Delaware's agency is tiny: it provides only 1,200 units of public housing, sprinkled mostly across the rural chicken-processing belt of Sussex and Kent Counties. But Delaware may foreshadow the future: Charlotte, a big urban housing authority, is considering adopting mandatory time limits too. As Harrison Shannon stresses, in refreshingly non-bureaucratic language, he doesn't want public housing to be a "safe harbor" for those who "lack a work ethic."

HUD regulations don't allow most housing authorities even to consider mandatory time limits. But Delaware and Charlotte are numbered among 32 housing authorities—1 percent of the national total—included in an HUD demonstration program called Moving to Work. HUD adopted the program under pressure from the 1996 Republican Congress, some of whose members were calling for the agency's outright abolition. Moving to Work regulations don't mention mandatory time limits specifically, but they don't prevent authorities from imposing them.

Delaware's program is tough stuff. Its mandatory time limit is shorter than Charlotte's voluntary one: just three years. Delaware helps residents find jobs and forces them to save money to start building a post–public housing nest egg, as Charlotte does. But any missteps—not showing up for work, failing to keep kids in school, even being late with the rent—lead to strikes against the resident. These expansively defined strikes represent failures to stay on the path of bourgeois social values that Delaware seeks to encourage. As in the national


SES ADDITION - MANHATTAN, N.Y.
IVISION OF HOUSING AND COMMUNITY RENEWAL
OUSING AUTHORITY
EBSTER-ARCHITECTS.

Unlike New York, Charlotte uses its gleaming new public housing as an incentive for residents willing to take action to improve their lives.

pasttime, three strikes and you're out: the resident must either leave public housing or pay a higher, unsubsidized market rent to stay. There's no "traditional" public housing to fall back on.

Because Delaware's program departs so decisively from past practices, it has angered some residents, who condemn it as unfair and punitive. But for others, the strict rules and firm guidance, as with welfare reform, help inculcate greater personal responsibility and a more vigorous work ethic. Linda Stephenson, who heads the tenant association in her housing authority complex, sees the new rules as eminently reasonable. "If I went to stay with my brother, he is going to want to know, 'What are you doing to better your situation? What are you going to do so you don't need my help?'" she notes. "That's how I see Moving to Work."

Critics of Delaware's initiative worry about what will happen to tenants after the three-year time limit expires. How will they afford market-level rents on the minimum wage? But the critics assume that the condition of the poor is static: that they will always be more or less dependent, incapable of taking charge of their own fates. After three years of training and support, critics assume, these public housing residents will still command only the minimum wage from employers. At least at present—with such a bustling national economy, and with welfare and housing reforms that aim to change the worldview of the poor and make them independent-minded—that assumption is suspect. Still, it is only prudent to acknowledge that, under such a no-nonsense regime, some residents ultimately will have to move back in with their parents or even seek a place in public shelters.

Over time, mandatory time limits could shrink the public housing system and ultimately end it as we know it. Delaware's time-limited tenants, for example, have the option, after their three years have expired, of remaining in their buildings and paying market-level rents. In the future, as apartments filled up with working families paying market rents, Delaware could sell off the now economically viable buildings to private buyers. Only a small core of emergency, time-limited housing would then remain. With housing time limits and welfare reform firmly in place, young women would be less tempted to become single mothers in the expectation of living on their own at public expense.

The value to cities of getting rid of public housing would be inestimable. Public housing projects haven't just incubated social pathology; they've also represented land held off the property tax rolls and reserved in perpetuity for a specific, low-value use. Freezing cities in this way is a sure way to sap their vitality: just look at how Harlem's thick concentration of public housing has kept the area from participating fully in the revitalization of Manhattan's Upper West Side. Putting public housing land back into circulation would help fuel economic growth.

Public housing has been a giant dead end. Charlotte and Delaware are showing the nation how it might extricate itself from a harmful system and set its demoralized inhabitants firmly on the road to the mainstream.

Governor Pataki's Failure

The governor ran as
a tax-and-spending cutter.
Now he's as profligate
as any liberal Democrat.

Thomas W. Carroll

POLITICIAN WANTED: *Must increase spending at twice the rate of inflation, massively increase government debt, support rent control, lead a government takeover of health care, lavish funds on the environment, throw indiscriminate billions at failing public schools, while remaining silent about school vouchers. Must not propose any new income tax cuts, since this could curb spending increases.*

If you saw such an ad, you'd think: liberal Democrat—right? Yet, curiously, the description exactly fits New York governor George Pataki, once labeled a "conservative" Republican. These days, plenty of people in the state capitol and beyond are scratching their heads and asking, what's going on?

Pataki first won election in 1994 on one overarching promise: that he would reverse New York State's long, painful economic decline, the result of decades of chronic state overspending that in turn requires high levels of taxation, at a time when savvy firms can move overnight anywhere they want in search of low taxes. Pataki would be the opposite of Governor Rockefeller, who created New York's vast, prosperity-killing welfare state—the opposite of Governor Cuomo, who made it markedly more toxic to business. Cuomo had joined forces with the profligate state legislature to boost spending 116 percent in 12 years, to drive taxes way above the national average, and to inflate government debt dangerously. By 1994, when Cuomo's third term stumbled to a close, businesses were fleeing the state in droves. Fleeing too were the talented young and the affluent elderly, who pay taxes, spend money, consume few social services, and make an economy thrive. To grasp how bad things had become, consider that, had New York just kept up with the rest of the U.S. during Cuomo's 12 years, it would have boasted an additional 1.4 million jobs when he left office. During Cuomo's watch, the state also fell to dead last in small-business creation, for decades the nation's No. 1 engine of economic growth (see "Down-and-Out Upstate," Autumn 1999).

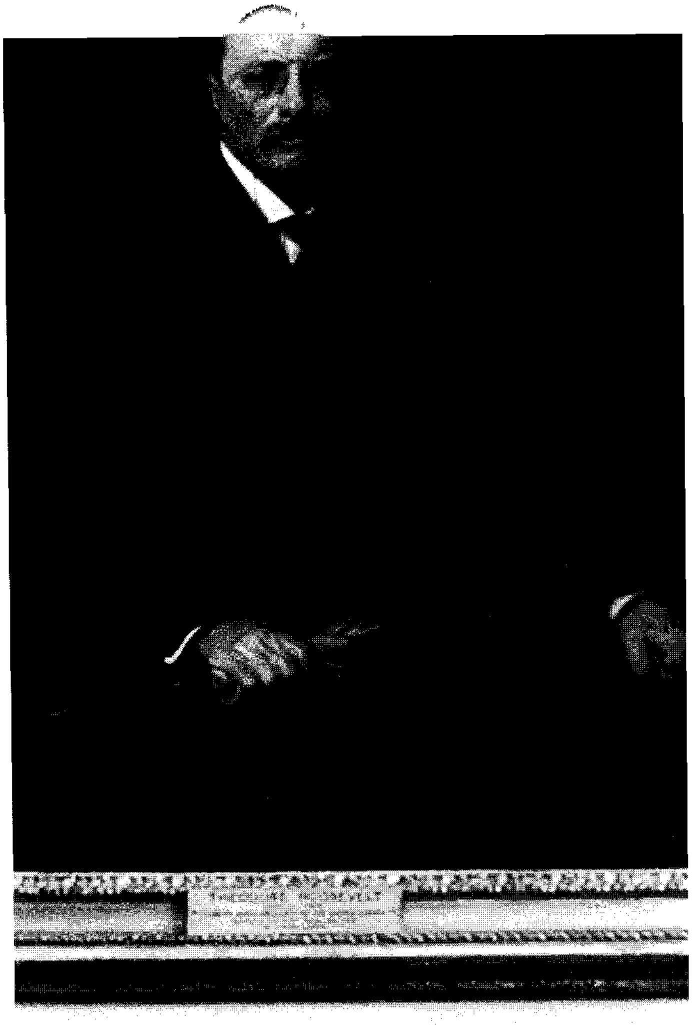
Pataki—for his first couple of years on the job—tried to keep his promises to revive the state's moribund economy by reducing government spending, slashing taxes, and cutting away needless regulations, like such innovative and successful Republican governors as John Engler in Michigan and Tommy Thompson in Wisconsin. Early on, though, critics began to worry that his reforms amounted to tepid half measures, not the desperately needed bold vision. But even half measures were better than Pataki's sudden mid-term transformation into something indistinguishable from a big-government Democrat (save in crime and welfare policy, where he remained true to his original conservative principles).

Pataki's departure from fiscal conservatism is most dramatic in government spending. In 1995 and 1996, he stopped spending in its tracks, keeping its growth below the inflation rate and shocking long-time Albany observers accustomed to Cuomo's ever-rising state budgets. It was a real achievement. But then the governor moved his foot off the brake on spending and floored the accelerator. By 1998, as state coffers overflowed with Wall Street–generated surpluses, spending shot upward at five times the rate of inflation. In inflation–adjusted terms, spending growth scaled higher that year than in ten of the 12 years of Cuomo's governorship. Pataki's most recent budget, for 2000–01, continues the wanton spending. The governor proposed—as a starting point for negotiations with the state legislature—to hike already stratospheric government expenditures by more than twice the inflation rate. Calling for a hefty $76.8 billion in spending, the new budget is 25 percent bigger than the $61.2 billion budget that he inherited from Cuomo.

Where does Pataki spend this mountain of taxpayers' money? On old-fashioned legislative pork, for starters. The state budget Pataki approved for 1997–98 authorized more than a half-billion dollars in pork—the highest fat content to date. State legislators shower the money on their constituencies to pay for everything from the Seneca Lake Whale Watch (yes, *Lake*) to the NYS National Abortion Rights Action League. Though the following year, when greedy legislators tried to stuff in $350 million more in pork, Pataki trimmed the fat a bit with his first-ever budget item vetoes, he still signed off on a $192 million increase for legislators' pet projects.

Pataki has okayed vast expenditures on corporate welfare, including a host of business subsidies, a $63 million renovation for the Buffalo Bills' Rich Stadium, and $14 million for a minor-league baseball park for Suffolk County. But as former UDC head and *City Journal* contributing editor William J. Stern has often argued, this kind of state-directed capitalism, in which government bureaucrats substitute their own choices for those of the market, leads to inferior investment decisions (see "Kamikaze Budgeting," Spring 1998). A mountain of evidence shows that the market allocates capital far more efficiently than do public officials, who tend to reward well-established firms and politically connected insiders, rather than the sharpest new idea or the best new product or service that can really make an economy zoom. But Pataki has shown little real fervor for the power of the market: large-scale privatization efforts have been virtually nonexistent during his six years as governor.

In vintage Cuomo style, Pataki has lavished nearly $2.5 billion in new funds on New York's dismal public school system without tying the aid to greater accountability for student performance. Per-pupil spending and the median teacher salary in the public schools have thus skyrocketed, but pupil test scores continue to lag behind the nation's—one more proof that greater spending doesn't on its own lead to better grades or higher SAT scores. Lots of money, few results: not much of a record for a self-proclaimed education reformer. True—much to his credit and over the howls of the teachers' unions—the governor coura-



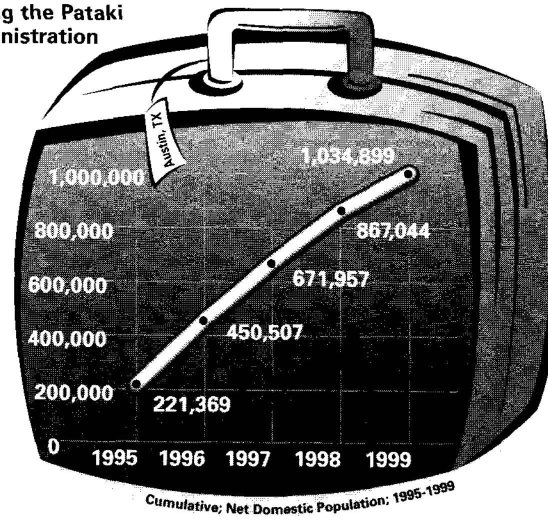
Poles apart: two Republican governors of New York.

JIM MCKNIGHT/AP

geously pushed a good charter school bill through the state legislature in late 1998, but so far only a handful of charter schools have opened. And he has remained silent on vouchers, seemingly hesitant to anger the teachers' unions further.

Health-care costs are a special budgetary nightmare in New York. After six years of Pataki, total state and local per-capita spending on Medicaid—now $1,177—remains 155 percent above the national average, about where it was in 1994. New York is almost unique in making localities pay part of the non-federal share of Medicaid. That quirk has allowed the state to pile on nonessential services, while foisting fully half the non-federal tab onto localities, which must then jack up property taxes. While Pataki has vetoed the occasional new benefit, he has failed to force down Medicaid expenditures or experiment with free-market reforms such as health-care vouchers or medical savings accounts for the indigent.

Number of People Who Left New York State During the Pataki Administration



SOURCE: U.S. Census Bureau

In fact, he has expanded Medicaid and increased other health-care benefits in the process. Late last year, he signed into law the Health Care Reform Act, which extends health-care insurance to more than 1 million uninsured New Yorkers. The new law, which Pataki negotiated with health-care union boss Dennis Rivera after a union-funded media blitz in favor of broadening health-care entitlements, guarantees more than $1 billion in annual subsidies to hospitals, protects Medicaid from any additional cuts for three years, and massively widens Medicaid eligibility. It represents New York's biggest expansion in welfare entitlements in over three decades and a devastating burden to the state's local governments. New York City's already stratospheric $3 billion-plus annual Medicaid tab will rise still higher (see "Medicaid's Fatal Attraction," Winter 1996).

Pataki threatens to drive up New York City's spending in another way that favors a powerful union. Seeking to placate the 29,000-member Patrolmen's Benevolent Association, Pataki has clashed with New York City mayor Rudolph Giuliani over the state's meddling in the city's collective bargaining processes. In late 1998, Pataki signed a bill that moved the site for arbitrating city labor conflicts with the police from the city's Office of Collective Bargaining to the state's Public Employment Relations Board—a pro-union body. A city official warned that the move could add $200 million a year to the city budget through higher salaries and more generous benefits (see "How 211 Nobodies Strangle New York," Winter 1999).

That taxpayers have to foot the bill for all this spending may not seem like such a big deal right now, when boom-fueled state personal income tax collections have increased a staggering 44.6 percent since 1994 (even after the 1995 income tax cut), giving the state 7.2 billion new dollars to play with, so that Pataki hasn't had to raise taxes. But what happens when the economy goes south, as it inevitably will? The lesson of the Cuomo years isn't encouraging. When the state was flush with money thanks to the Reagan boom, Cuomo locked into place high levels of programmatic government spending; when the U.S. economy worsened, taxpayers had to fork over more dough. Pataki seems determined to repeat this catastrophic mistake. The state's reserves, though higher than ever, remain modest and would quickly drain away if the economy turned.

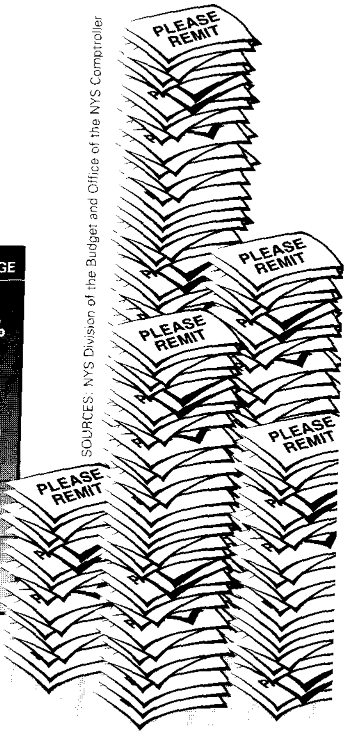
But Pataki has threatened New York's future in a more insidious way than committing the state to a high level of current spending. Debt has mushroomed, too. For current taxpayers the burden of servicing it is heavy enough; future taxpayers will have to face paying back the principal too. A future economy-minded governor will be faced with interest costs that, unlike current spending, can't be reduced. Under Pataki, outstanding taxpayer-supported debt has swelled 32 percent to a record $37 billion, with debt service payments now at $3.7 billion annually and growing to $4 billion by the end of the 2000–01 fiscal year. New Yorkers' per-capita debt is now approximately $2,100, *triple* the national average. And that's not including the $63 billion owed by New York's 31 bond-issuing public authorities—debt Pataki has inflated a shocking 34 percent instead of finding a way to shrink it and shutting down the authorities. Total state debt has reached $100 billion.

Two decisions typify Pataki's willingness to bury New York under a mountain of debt. First was his $1.75 billion environmental bond act, which voters approved in November 1996. That the governor, uncritically supportive of green causes, wanted to spend so much on the environment in a state already swamped with environmental regulations was bad enough. Worse, though, was issuing a bond to do it, ignoring Assembly Majority Leader Michael Bragman's more responsible pay-as-you-go alternative. The bond will add nearly $1 billion in interest costs to the final bill.

Second, to return a tiny rebate to Long Island voters, Pataki used a new state authority to take over the Long Island Lighting Company. The move required a jaw-dropping $7 billion municipal debt offering—the largest in U.S. history. Moreover, as other states move toward efficient market-based provision of energy—low energy costs being a key consideration of businesses when they decide where to locate—Pataki has extended inefficient government control over energy. New York's energy costs remain more than 50 percent above the national average.

YEAR	1994	1999	% CHANGE
GENERAL PUBLIC AUTHORITY DEBT	[illegible]	[illegible]	+34%
DIRECT TAXPAYER-SUPPORTED PUBLIC AUTHORITY DEBT	[illegible]	[illegible]	+41%
OTHER STATE DEBT	$6 BILLION	$6 BILLION	+0%
TOTAL DEBT NEW YORK STATE	$75 BILLION	$100 BILLION	+33%

New York State Debt During the Pataki Administration



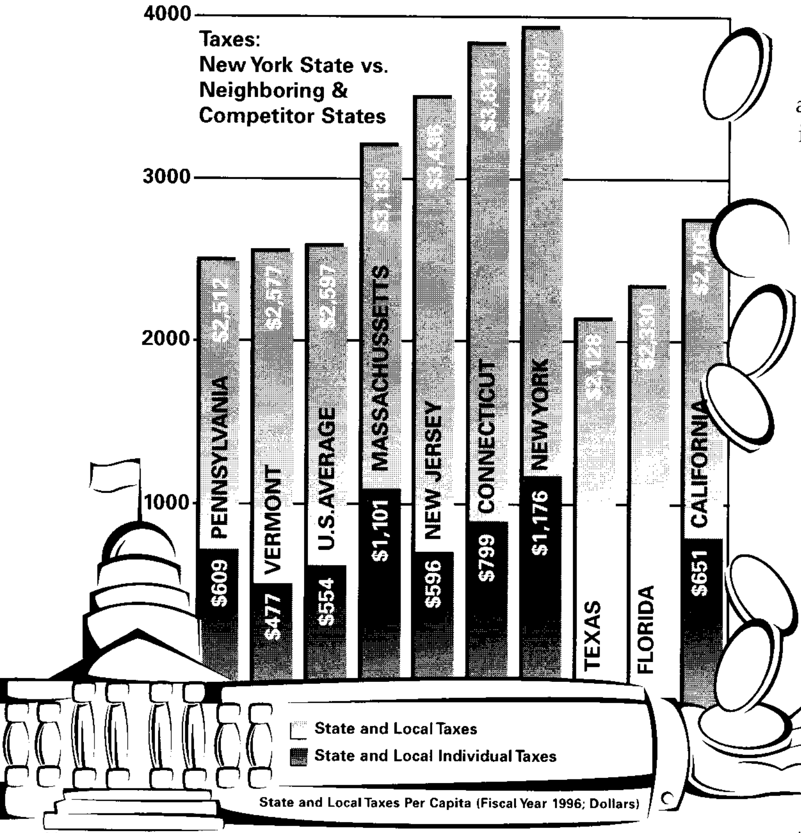
SOURCES: NYS Division of the Budget and Office of the NYS Comptroller

Even though Standard and Poor's has recently improved New York's credit rating, it is still worse than all the other states except Louisiana. The poor bond rating raises borrowing costs, making deficit financing even more burdensome. Despite occasional calls for debt reform ("help me stop myself from borrowing again"), Pataki continues to push New York even deeper into the red. His 2000–01 budget calls for more than $2 billion in new debt over the next five years.

Confronted with criticism about the governor's wild spending and borrowing, Pataki defenders enthusiastically point to his tax cutting, but even his record on taxes is less impressive than it first appears. In February, Pataki proudly claimed to have cut "19 different taxes 48 separate times," saving New Yorkers a total of $29 billion. The truth is that $18 billion, or 62 percent, of the $29 billion figure resulted from a single act: a 25-percent reduction of the income tax during his first year in office. Since then, Pataki has attempted nothing close to a tax cut of that size.

In fact, most of his subsequent tax reductions have been relatively insignificant and selective—driven by favors to specific industries, environmentalists, and other special interests. Pataki has issued tax credits for fixing up historic barns, investing in solar power, and leasing or selling alternative fuel vehicles to the government; he has exempted from sales tax South African coins, meteorological services, homeowner association fees, passenger bus lubricants, and a handful of other items. It's minor-league stuff.

Pataki did start out with a good idea with his STAR (School Tax Relief) program, aimed at lowering local property taxes. New York's property taxes are 60 percent above the U.S. average—$500 per capita over nearby Pennsylvania's—in part because of the hefty sums municipalities pour into their public schools, largesse that they finance on the backs of property owners. Pataki's initial plan offered state-funded rebates to school districts that wanted to cut property taxes on homeowners (though not on businesses) and maintain *existing* levels of school funding—the state money would simply replace the local property tax dollars. The plan crucially included a mandatory property tax cap to prevent districts from frittering away the money and hiking school taxes anyway. But typically, under pressure from the teachers' unions, the governor approved STAR without the cap, turning it into nothing but an additional subsidy to school districts. And predictably, many school districts that have received the rebates have still raised property taxes.

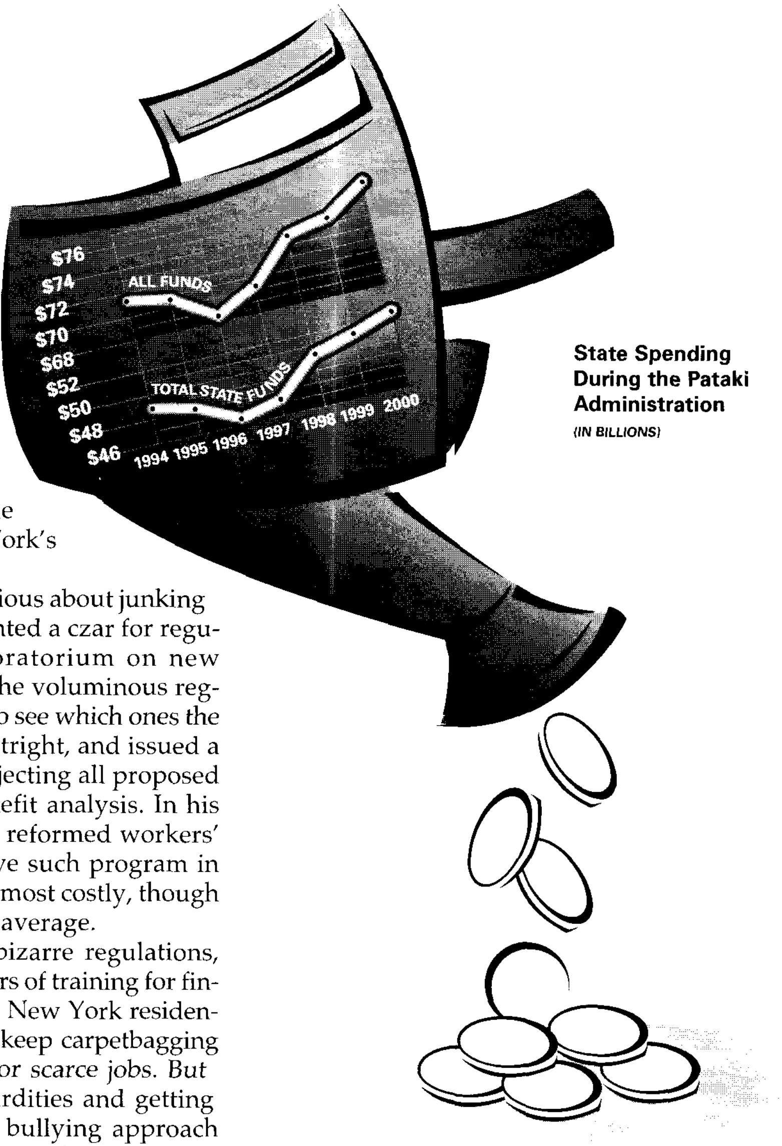


SOURCE: U.S. Census Bureau

To top all that off, Pataki has even started to raise taxes. In June 1999, he negotiated and signed into law a delay in an already-on-the-books sales-tax reduction on clothing, costing state taxpayers $150 million—exactly the type of tax scheme Pataki had once excoriated Cuomo for supporting. Then, Pataki signed into law a gigantic $400 million cigarette tax increase as part of his Health Care Reform Act. Finally, early this year, the Pataki administration proposed annual increases in tolls, a brand new state tax on water, and a total of $30 million in new, assorted fee hikes. Under sharp criticism from Republicans and Democrats alike, Pataki withdrew both the Thruway toll increases and the water tax. But it's clear that he has lost his hostility toward taxes.

Overall, New York has made some progress on taxes. But despite Pataki's tax cuts, New York's taxes still remain sky high, seriously impeding job growth. Per capita, the burden of state and local taxes and fees in New York still exceeds that in all but one other state (Alaska). Our personal income tax rates are a principal reason why. The top rate on paycheck income—almost 7 percent statewide, and 11 percent in New York City—is far above those of neighboring states. And it's not just the wealthy paying these top rates; New York's top income bracket applies to individuals earning just $20,000 or more in taxable income.

In his 1994 campaign against Cuomo, Pataki pledged to overhaul New York's oppressive regulatory environment—"the 12 miles of red tape, enough to stretch from Albany to Schenectady and back again," as he



State Spending During the Pataki Administration
(IN BILLIONS)

SOURCES: Office of the NYS Comptroller and NYS Division of the Budget

colorfully put it in his first state of the state address. Environmental mandates, licensing fees, long bureaucratic delays before businesses can get the go ahead to open—all these dampen the entrepreneurial spirit of New York's large and small firms alike.

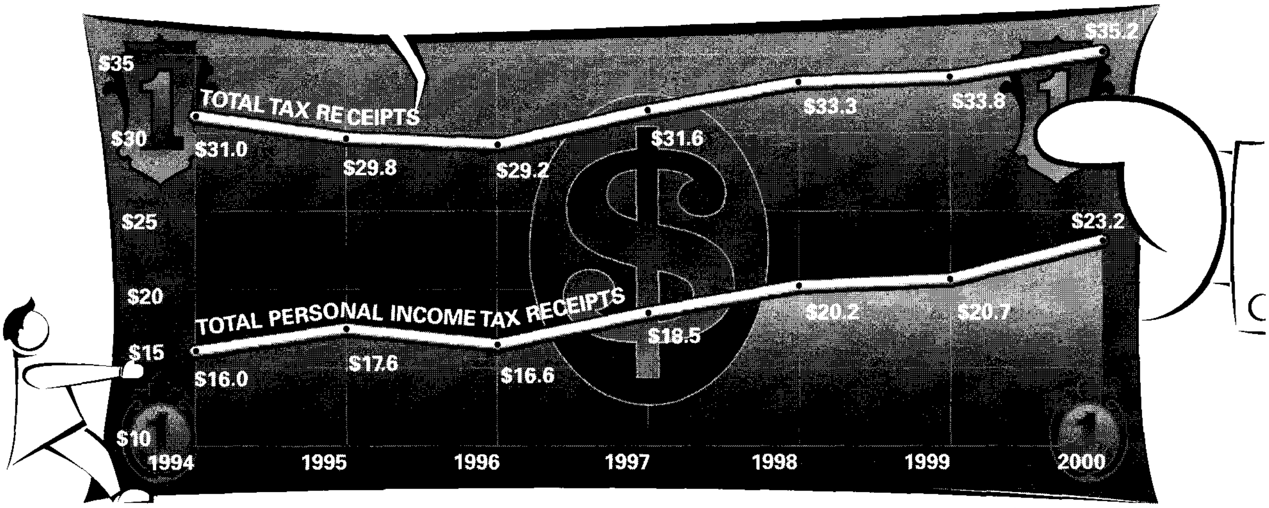
At first, Pataki seemed serious about junking useless regulations. He appointed a czar for regulatory reform, placed a moratorium on new regulations, began to review the voluminous regulations already on the books to see which ones the state could reform or scrap outright, and issued a sweeping executive order subjecting all proposed new regulations to a cost-benefit analysis. In his biggest regulatory success, he reformed workers' comp, once the most expensive such program in the country and now the tenth most costly, though still 20 percent above the U.S. average.

Pataki's czar uncovered bizarre regulations, from a requirement for 250 hours of training for fingernail painters to a mid-1940s New York residency requirement for barbers, to keep carpetbagging hair cutters from competing for scarce jobs. But beyond publicizing such absurdities and getting agency officials to drop their bullying approach toward regulated businesses, Pataki has done little to slash away existing regulations: the rules for fingernail painters and barbers remain on the books. And—making things worse on the regulatory front—the governor has mandated that by 2003 at least 10 percent of cars sold in the state must be zero-emission vehicles, whether the public likes it or not.

In mid-1997, the governor spectacularly squandered a historic opportunity to do away with New York's most senseless regulation: the rent control that chokes New York City's supply of new housing and drives up its rents. The state's rent regulation laws would have automatically expired that summer unless the legislature extended them and the governor signed the extension into law. In fact, since Senate Majority Leader Joseph Bruno vowed that the Senate would not renew rent control, Pataki could simply have done nothing, and rent regulations would have been on the way out. Instead, cravenly seeking to blunt criticism from the left, he cut a deal with Democratic Assembly Speaker Sheldon Silver to save the rent regulation regime, implementing only minor changes. A political failure that still amazes, it leaves the rent regulation regime in place for years to come.

The result of Pataki's bad policies is an economy that has stayed stubbornly sluggish throughout an unprecedented national boom. Since Pataki took office, New York's private-sector job growth has ranked 44th in the nation. In upstate New York, Pataki's political base, job growth would be next to last if the region were a separate state—surpassing only Hawaii, where at least the weather is nice. Perhaps sensing that better opportunities lie elsewhere, more than 1 million people have left New York on a net basis since Pataki's inauguration. In recent months, Pataki has touted new numbers that show some job growth progress over the past year, but even his administration's own job forecasts predict a rate of job growth that trails the

New York State Tax Receipts During the Pataki Years (IN BILLIONS)



SOURCE: NYS Division of the Budget

national average for the next few years. What we're seeing is a familiar pattern: New York begins to lose jobs before national recessions begin and only starts gaining jobs long after the rest of the country is robustly creating them.

In short, Pataki's New York is spending lots more money, is much deeper in debt, and is still one of the most heavily taxed and regulated states in the nation. The governor's new spending and additional debt will make it all the harder to cut taxes in the future.

Why is Pataki, six years after defeating Mario Cuomo, embracing policies remarkably Cuomoesque, and in some cases even more liberal? I think the most plausible explanation is narrowly political. To win the 1998 election, the governor decided to "triangulate," Clinton-style: to co-opt the left's agenda, leaving the opposition with nothing to run against and cynically assuming that his own supporters had nowhere else to go. In narrow political terms, it worked—at least for the 1998 race, in which he had no real opponent. Pataki's latest bloated budget, and his tight clinch with union boss Rivera in forging the egregious Health Care Reform Act, signals that he believes the same strategy—taken to its extreme—will pay off with another victory if he runs for governor again in 2002.

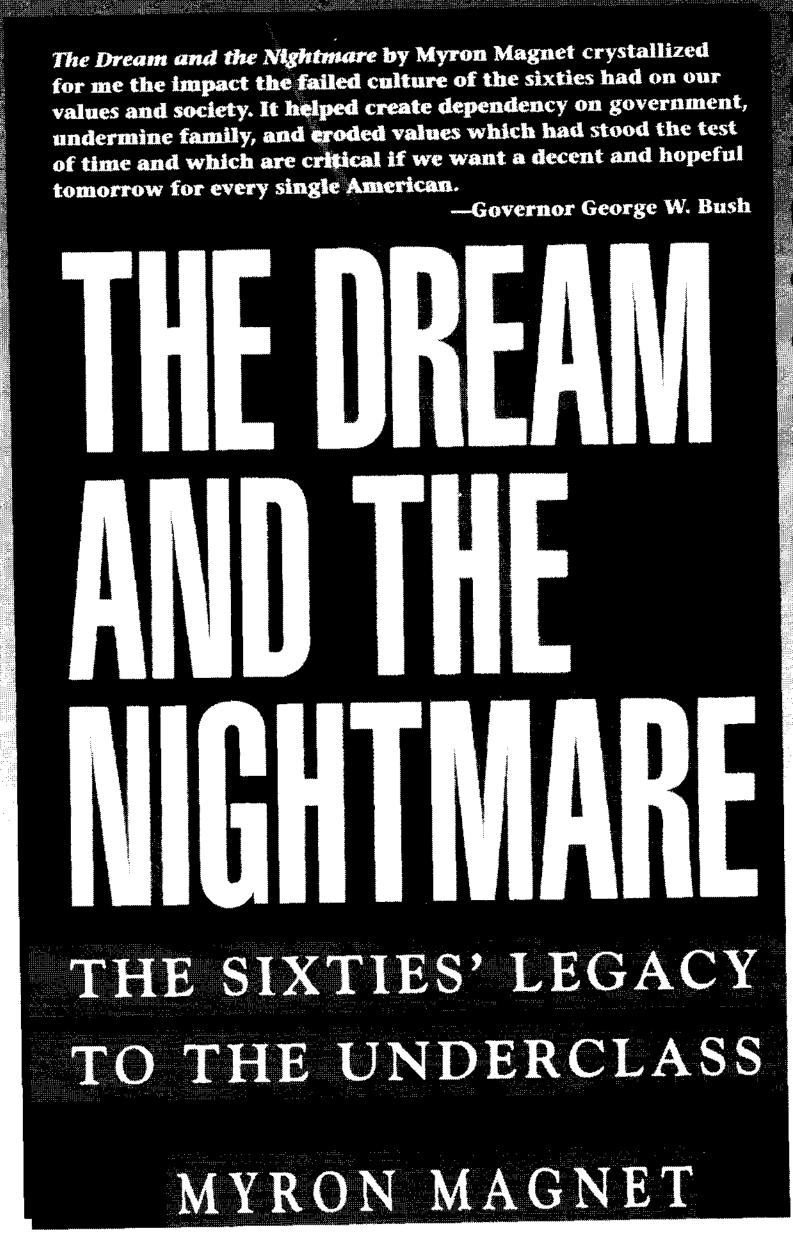
Will it? Pataki probably will face a strong Democratic candidate: either Andrew Cuomo (son of the former governor) or State Comptroller Carl McCall. Both will prove a more serious challenge than did his now-forgotten opponent in the 1998 race. Pataki has also fractured much of his political base: he has angered conservatives and upstate supporters with his financial intemperance, feuded with long-time ally Senate Majority Leader Bruno over rent control and many other issues great and small, and has lost support among Republican county executives, who resent the additional Medicaid bills that they will have to pay thanks to the Health Care Reform Act. Pataki's triangulation, even on its own terms, may prove a dangerous gambit.

Perhaps we shouldn't be surprised that Pataki has proved so disappointing. After all, like so many of his colleagues, he's a creature of New York's dysfunctional political culture. The Reagan revolution that transformed American politics during the eighties—discrediting the idea that big government is the answer to every human need—never reached New York State. Both of New York's major political parties, free from ideas or inspiration, have kept close ties to the special interests—the construction industry, the trial lawyers, the government bond industry, and the health-care providers, even the teachers' unions and the municipal labor unions—that benefit hugely from a gargantuan welfare state. Though the governor at first seemed to escape the state's political culture, in the end it has claimed him as one of its own. ▨

"The book that helped shape [George W.] Bush's message"

—Austin American-Statesman

• NEW EDITION



The Dream and the Nightmare by Myron Magnet crystallized for me the impact the failed culture of the sixties had on our values and society. It helped create dependency on government, undermine family, and eroded values which had stood the test of time and which are critical if we want a decent and hopeful tomorrow for every single American.

—Governor George W. Bush

THE DREAM AND THE NIGHTMARE

THE SIXTIES' LEGACY TO THE UNDERCLASS

MYRON MAGNET

Hilton Kramer called the book "an indispensable guide to the outstanding questions of the day," columnist Mona Charen deemed it "the book of the decade," and the *Wall Street Journal* remarked that "many writers have addressed this topic [of the underclass] but few have done so with more wisdom or more passion."

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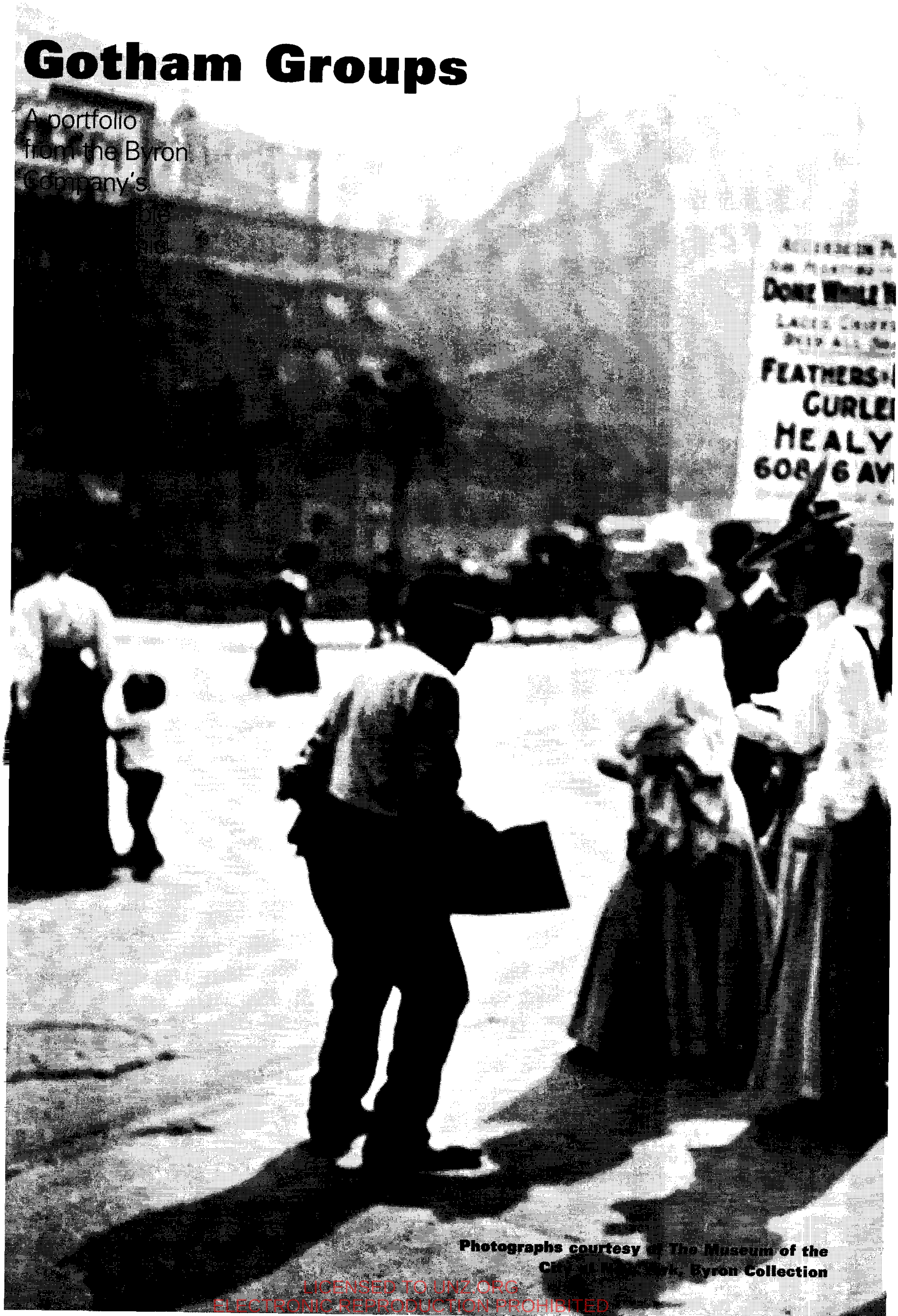
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Photographs courtesy of The Museum of the City of New York, Byron Collection

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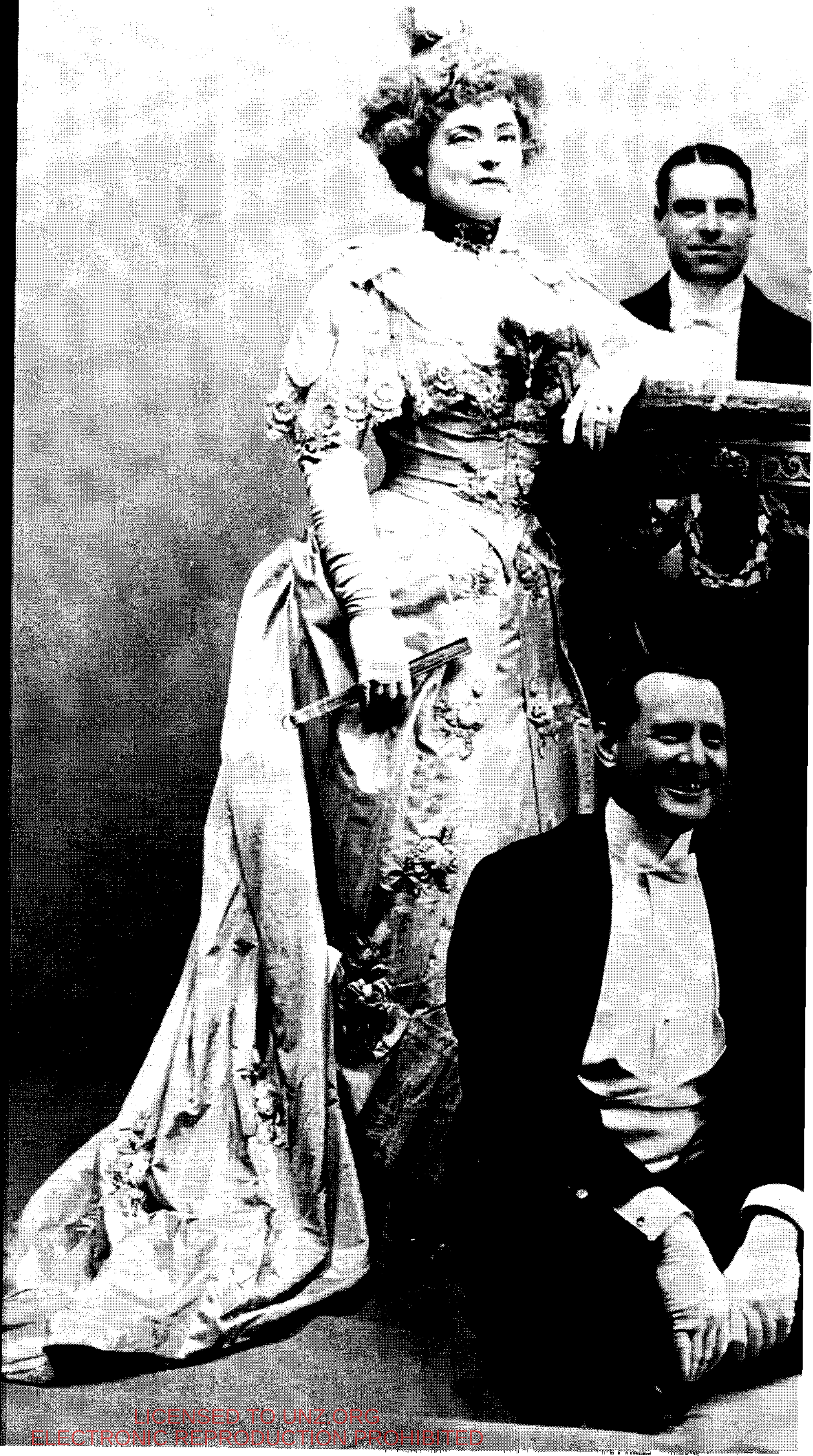

N.Y.

Visiting American Indians take in the view from the roof of the McAlpin Hotel in 1913.

In costume: at the **New York Foundling Hospital in 1900 (left)** *and at the Century* **Club in 1917 (below)**

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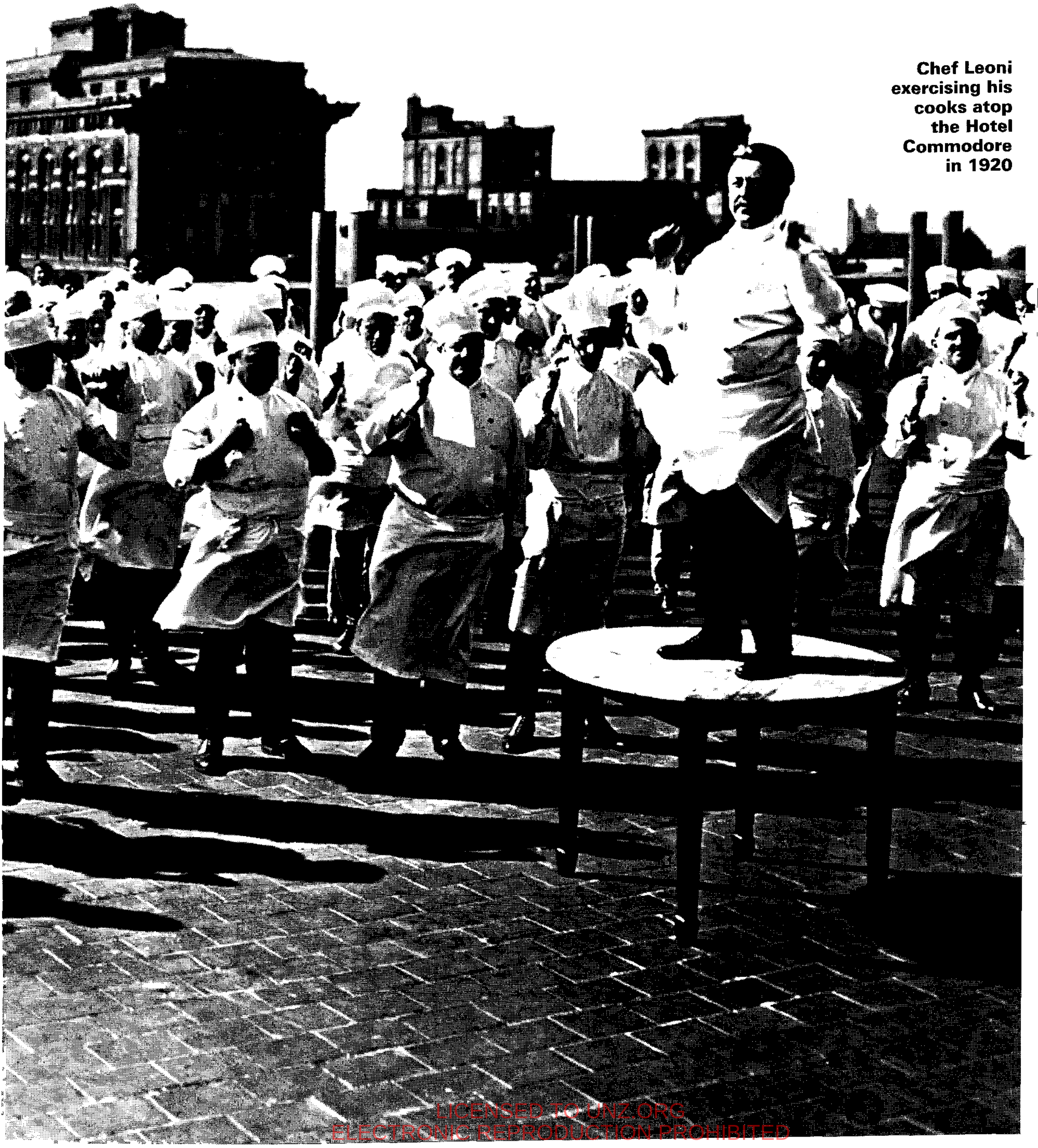

Chef Leoni exercising his cooks atop the Hotel Commodore in 1920

Urbanities

Good Literature Lives!

Stefan Kanfer

"If you build it, they will come," predicts the haunting off-screen voice in *Field of Dreams.* Kevin Costner takes the hint, builds an elegant baseball field in back of his farmhouse, and behold!—deceased Hall of Fame players materialize from the ether and a line of patrons stretches to the horizon.

A heartening parable about America's hunger for quality—and one that Hollywood and New York have since forgotten. In a way, the Left Coast can be excused for its maunderings; movie audiences are largely composed of mall rats and adults who move their lips when they look at pictures. Publishers are not so easily let off the hook. Indeed, recent phenomena show that a) consumers still display a ravenous appetite for good literature. And b) those readers can make authors and publishers rich.

Harry Potter
and the Prisoner of Azkaban

Cases in point: J. K. Rowling and Patrick O'Brian, writers not of one-shot successes but of continuing series demonstrating, volume after volume, that excellence is good business. Superficially, these novelists seem oceans apart: Rowling's Harry Potter novels are fantasies shaped for the young reader; O'Brian's realistic sea stories are adult in every sense of the word. Yet the subtexts of both are astonishingly similar. Each writer presents a moral universe with abiding values. There, honor is not obsolete, nor are trust, courage, loyalty, and the dignity of labor. And there, deceit is nothing to snicker at behind the hands; it is something to be reviled.

In a strange way, it is this moral conviction that threatens handfuls of yahoos who want to see Rowling's creations taken off the shelves. The South Carolina Board of Education, for example, is considering a classroom ban. "These books have a serious tone of death, hate, and sheer evil," claimed one of the parents who addressed the Board. And in Marietta, Georgia, elementary school principal Jerry Locke commented ungrammatically, "It's questionable whether every parent wants their child to read or be exposed to books having to do with magic or wizardry."

The principal has lost sight of the principle. Yes, the Potter fantasies deal with fictive evil, but not so fictive that it can't be recognized as a metaphor for the threats facing civilization every day. That evil is well armed with the weapons of chaos, violence, ignorance, and, worst of all, indifference. The way to fight it is not with moral relativity but with moral conviction. Granted, some parents raised on seventies bumper stickers that read QUESTION AUTHORITY might not be able to handle certitude of any kind. In that case, J. K. Rowling may be just the tutor to help them grow up.

Appropriately enough, Rowling's life contains aspects of a fairy tale: the graduate of Exeter University in Great Britain started her professional career as a teacher of French. Married and divorced early, she was an impoverished single mother living in Glasgow when she wrote her first children's book, hoping to bring in a few extra quid. The Scottish Arts Council provided a minuscule grant that allowed Rowling to reach the finish line. The rest is publishing history.

Harry Potter and the Sorcerer's Stone appeared in 1997 and promptly elicited lyrical reviews, awards, and cries for more adventures of the remarkable 11-year-old protagonist. Proving Churchill's dictum that England and the U.S. are separated by a common tongue, the story received some minor touchups when it crossed the pond (Scotch tape for cellotape, etc.), ascended the *New York Times* bestseller list, and stayed there for 30 months. Two more Harry Potter books followed; they have also clung to the crest of that list like eagles in an aerie, season after season, in England and America. The fourth Harry Potter book has not yet been published, but is already a smash—Amazon.com has received more than a quarter million advance orders.

Given the customary pap of the fiction list, this success might seem to indicate a series aimed at the lowest common juvenile. Not so. The Potter books are intelligent, witty, and filled with references to classical myths and English lit. The eponymous Harry has all the requisites of a young hero in those genres: he is parentless, unloved, and unprepossessing. We have run across this sort of individual many times before. He is Arthur, the lost soul with strength enough to pull the sword from the stone. He is the ugly duckling before he becomes a swan, the wooden Pinocchio, the orphaned Oliver Twist, Pip of *Great Expectations*, the pre-lamp Aladdin, the pre-spinach Popeye.

Like them, Harry is no ordinary soul. As he comes to learn, his late mother was a good witch, his father a gifted wizard. Evil powers did away with them when Harry was a mere infant. Grumbling all the way, his oppressive Aunt Petunia and Uncle Vernon take the child in. The drab and vile-tempered Dursleys are bad enough, but their son Dudley gives new meaning to the word "lout." Rowling has a word for these miserable wretches and others like them: Muggles. A Muggle is someone without the gifts of magic and high-powered imagination. (As all sensitive children can testify, Muggles constitute a distressingly large part of the population.)

Harry lives at the epicenter of Muggledom, a London suburb. There, at 4 Privet Drive, he is bullied and neglected, until a strange caller arrives from Hogwarts Academy, offering the boy a scholarship. The Dursleys grudgingly allow Harry to go, little suspecting that Hogwarts is the official prep school for wizards.

STEPHEN ELLISON/CORBIS OUTLINE

J.K. Rowling's forthcoming volume already has 250,000 orders.

Installed in his rooms, Harry enters an enchanted parallel world where miracles are common occurrences and natural laws get flouted every day. Owls deliver the morning mail, for example, and rather than toll the hours the clock says, "You're late" and "Time to make tea." In addition, the school teaches such subjects as Potions and Transfiguration. Nevertheless, enchantment has its price. Like every school the world over, this one has its tyrants and snobs. Harry often faces humiliation and learns to survive with an amalgam of craft, courage, and willingness to learn from grayer and wiser heads. One of them is the great good wizard Dumbledore, who advises Harry that the scar on his forehead is not a disfigurement. It is evidence of a lightning bolt hurled at him by the wicked wizard Voldemort. The electricity was meant to kill, but the child's mother intervened—fatally, as it turned out.

With Dumbledore's aid, Harry harkens to the value of valor and the uses of arcane knowledge. Eventually he learns to navigate through time; although Harry can never speak to his late parents he learns to see them, as vivid as dreams and as significant as memory. It would be unsporting to reveal the plots of the first three books; suffice to say that they contain more than mere convolutions of narrative. In essence, Rowling has picked up the baton carried by the great writers of children's literature. Harry's adventures with talking chess pieces, for example, evoke the chapters of Lewis Carroll's *Through the Looking Glass*. The boy's ability to talk to snakes is not unlike Merlin's interspecies fluency in T. H. White's *The Once and Future King*. Other influences include Roald Dahl's *Charlie and the Chocolate Factory*, P. L. Travers's *Mary Poppins*, James M. Barrie's *Peter Pan*, and C. S. Lewis's Narnia tales. Rowling has chosen her ancestors well.

What makes the Harry Potter books even more appealing is the author's refusal to write down to her audience. Many publishers are convinced that prose must be made "accessible" (read "insipid") for a TV-trained generation. J. K. Rowling will have none of this nonsense. Here is Harry staring into a magic looking glass at the images of his deceased parents and other relatives—and possibly of his future self:

PATRICK O'BRIAN
THE HUNDRED DAYS

They just looked at him, smiling. And slowly, Harry looked into the faces of the other people in the mirror, and saw other pairs of green eyes like his, other noses like his, even a little old man who looked as though he had Harry's knobbly knees—Harry was looking at his family, for the first time in his life.

The Potters smiled and waved at Harry and he stared hungrily back at them, his hands pressed flat against the glass as though he was hoping to fall right through it and reach them. He had a powerful kind of ache inside him, half joy, half terrible sadness.

Here Harry's reference book delves into the subject of alchemy:

The ancient study is concerned with making the Sorcerer's Stone, a legendary substance with astonishing powers. The Stone will transform any metal into pure gold. It also produces the Elixir of Life, which will make the drinker immortal.

There have been many reports of the Sorcerer's Stone over the centuries, but the only Stone currently in existence belongs to a Mr. Nicolas Flamel, the noted alchemist and opera lover. Mr. Flamel, who celebrated his six hundred and sixty-fifth birthday last year, enjoys a quiet life in Devon with his wife, Perenelle (six hundred and fifty-eight).

If Joseph Campbell is right, if the universal hero has a thousand faces, Harry's is surely one of those visages. And his journey is one of those heroic journeys, buoyed by a sense of humor and driven by youthful discoveries. Among them: that action is character, that morality is not relative, that there is no running away from wickedness, that the values of the material world last about as long as a toy, and that the values of the spirit endure. In Hogwarts, all this is known as magic. In the real world it is known as ethics.

An older group of readers can find such ethics on every page of Patrick O'Brian's exemplary sea stories. O'Brian's career does not have the over-the-rainbow aura of Rowling's; at the time of his death early this year, more than a few British obituary writers commented sourly on his beginnings. The author officially claimed to be an Irishman, born in Galway in 1914 and educated at England's oldest universities. During the war, went his story, he had many daring adventures whilst serving in British intelligence. Demobbed, he and his wife Mary moved to Wales ("Dear people, splendid mountains, but a terrible climate"). In 1949 the O'Brians headed for Collioure, a fishing village in French Catalonia, where they set down roots.

Save for the start and finish, very little in this vita was true. O'Brian was an Englishman of German ancestry, born Richard Patrick Russ in Buckinghamshire. His father, one of 13 children, was a physician specializing in venereal disease. Perhaps seeking to repeat his family history, Dr. Russ fathered nine children, whereupon his wife died, debilitated and old before her time. The doctor was a domestic monster, manipulative, brutal, and cold. He had little use for his most rebellious child, and Richard returned the favor. Restive and angry, the boy left home before he got out of his teens.

He never went to college—or to sea, for that matter; he married young and had two children. Richard Russ's initial literary efforts, a book about animals and a novel, made little impression. Somewhere along the line he broke off relations with his father, his brothers and sisters, and, not long afterward, with his wife, son, and disabled daughter.

CHRIS DOELLETTE/CORBIS OUTLINE

Patrick O'Brian has written minor classics, like Wodehouse and Conan Doyle.

But he was not the emotional basket case he appeared to be. Several years later he began seeing the estranged wife of Count Nikolai Tolstoy, whom he had met during the war, when they both had drab desk jobs at MI-6, writing propaganda. When her divorce was made official, the couple wed. This marriage took, and the couple did indeed move to the south of France. There the author became a scholar, immersing himself in maritime museums, analyzing long-forgotten ships' logs, and making regular visits to the Admiralty in London in order to research the smallest details of ocean voyages and historic battles. He attempted a couple of sea stories, each one meticulously true to its period. He supplemented his meager royalties with translations under his now-legal name, Patrick O'Brian.

Several sea novels appeared. And then a few more. Slowly his reputation grew. Iris Murdoch became a fan, as did the playwright Tom Stoppard; in the U.S., praise came from Eudora Welty: "Patrick O'Brian has the power of bringing near to the reader savagery and tenderness, beauty and mystery and boldness and dignity." Eventually the *New York Times* judged O'Brian's series "the best historical novels ever written." But by that time the author was in his sixties, and privacy meant more to him than royalties. Though O'Brian's tales sold in the millions, he shied away from publicity tours until his hair was white and his reputation secure. O'Brian's idea of a good time was sitting at his desk and writing, with an 1810 *Encyclopaedia Britannica* at his side to get the facts right. In the hours when he was not creating, the recluse cultivated a vineyard and made his own wine until the week before his death in January at the age of 85.

The notion that an Englishman could pretend to be an Irishman was too much for the British papers. They harped upon the author's deceptions. Unmentioned in the obits was the great tradition of British *noms de plume,* from Charles Lamb to George Eliot to Rebecca West to George Orwell and beyond.

Yet Patrick O'Brian's greatest fabrications are not himself and his background. They are the ship's captain, Jack Aubrey, and his polymath friend Stephen Maturin, physician, naturalist, linguist, and secret agent, who sail the seas circa 1800–1815. Like most aquatic creatures, the 225-pound, unkempt, yellow-haired Aubrey is ungainly on land and graceful on the water. His colleague is a landlubber by preference, but curiosity and connivance find him on numerous voyages led, of course, by his compatriot. Aubrey is a Tory, Maturin an Irish-Catalan with a radical streak—no doubt because he attended medical school in Paris during the Revolution. Excepting only Sherlock Holmes and Dr. Watson and Jeeves and Bertie Wooster, they constitute popular literature's most compelling odd couple. It is no accident that these pairs have so much in common. Each friendship contains polar opposites, amiable, admirable archetypes who may be foolish or egotistical at times, but who always come right before the end. Bookstores are littered with overpraised volumes with a shelf life of a generation. Meantime, Conan Doyle and P. G. Wodehouse go on and on and on. O'Brian belongs with them; 100 years hence, his novels—minor classics but classics nonetheless—will still be in print.

For he, too, is a master of the small vignette. But unlike Conan Doyle and Wodehouse, he is also a master of the large canvas. Effortlessly, O'Brian describes the courtships of his protagonists, their wives, their friends, their enthusiasms and loathings. Readers are transported to skirmishes with Napoleon's navy, to the icebergs of the southern oceans, the quiet waters of the South Pacific. (In that gentle clime, the two men enjoy a civilized moment playing passages written by the recently deceased Mozart on their stringed instruments, Aubrey on the violin, Maturin on the cello.)

Inevitably, O'Brian is compared with that other writer of rollicking sea tales, C. S. Forester, whose Captain Horatio Hornblower flourishes in the same period. Splendid and accomplished as those stories are, they belong in a different category from the Aubrey / Maturin books, since they aimed to please boys as well as men. O'Brian sailed for another, wholly adult, shore; the most powerful influence on his prose, and on his wit, was the author whose first editions adorned his study: Jane Austen. Indeed, *Post Captain,* the second book in the series, is a comedy of manners mainly set in country houses. It stands as a sly tribute to the lady from Bath.

Moreover, O'Brian, unlike Forester, never makes concessions to the reader. His naval terms are often obscure, his dialogue filled with authentic, long-forgotten words of the period, his attention to detail so obsessive that pages upon pages deal with medical difficulties, natural history, and the various courses of long exotic dinners. Rather than discourage his public, these attributes have served to make it more enthusiastic. Dean King's book, *A Sea of Words,* is devoted to O'Brian's nautical terms; Anne Grossman and Lisa Thomas's *Lobscouse & Spotted Dog* offers the recipes of meals (one of which includes rats) that Aubrey and Maturin have consumed; and two CDs contain the music that the seagoing violinist and cellist played. In addition, there are relevant atlases and geographical guides, a newsletter, and even a parody of the series, *The Port-Wine Sea.*

As with the Rowling opus, tergiversations of plots are not the main appeal of O'Brian's books. What makes them distinctive is their Austenic sense of place and period and their unflinching worldview. O'Brian's ships of the line are moral arenas, places where excellence is everywhere, not only because the commander demands it but because the seamen take pleasure in exhibiting their considerable skills. Discipline is demanding but not cruel. The social hierarchy makes for stability rather than resentment, because good manners are general and respect is as much a part of daily life as bread and grog. Everyone knows the forms of etiquette on land as on shipboard, knows how important it is to get them right. Servants and masters recognize the right wig and the proper wardrobe for every occasion. They are comfortably familiar with the structures of deference and authority; they are well aware that each flicker of manners exposes the soul—that the way people are treated, above and below one's station, is a balance sheet of one's own worth as a human being. In this world, the self is not something to be indulged; it is to be contributed to the common weal, whether that self belongs to a crewman or the captain himself.

In a very real sense, Aubrey becomes a nineteenth-century CEO, acutely conscious of his role as a leader responsible for hundreds of men: their harmony or discord, their success or failure. As we watch him work his way up the career ladder, we come to understand and appreciate his much-maligned era. It was a period, O'Brian cannily points out, when exploration and discovery animated every aspect of science, when—at least in parts of the social world—merit and achievement went hand in glove with duty. In O'Brian's world, doing one's best is not a slogan but a way of life.

All this is rendered with color and verisimilitude by a thoroughgoing professional, time-traveling to the early nineteenth century. Having magically arrived there, he seems to sit in a tavern by the water or a snug London club, regaling his listeners with recollections. Here, a ship prepares to weigh anchor:

> *There was no point in playing the violin or even conversing, for although the capstan on the quarter-deck was not directly overhead, its bars, now in place, swept back almost to the wheel, and once the messenger had been made fast to the cable, once it had taken the strain and the bosun had cried "Stamp and go" and a little wizened old forecastle-hand had leapt onto the capstan-head with his fife and played the tune of "Round and round and round we go, step out my lad and make your feet tell 'em so," the whole space below was filled with a huge confusion of sound dominated by the rhythmic tread of the men at the bars and sound of the great sodden cable coming in, attached by nippers to the messenger, and then, they being cast off, plunging heavily down to the tiers in the orlop where very strong men coiled it and stowed the great coils away.*
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> *The frigate glided over the water quite briskly, then slower, slower until the bosun called, "Right up and down, sir," and the officer of the watch replied, "Thick and dry for weighing," a cry instantly echoed from the depths by the extraordinarily penetrating voice of Eddie Soames, the ship's eunuch, always good for a laugh.*

Alas, there will be no additions to the shelf of 20 Aubrey/Maturin novels. But the reading of these, and five other full-length O'Brian fictions, plus the author's biographies of Pablo Picasso and eighteenth-century botanist Joseph Banks, should keep enthusiasts busy for many years to come. More than that, they should serve as a high-water mark for publishers. To be sure, saccharine children's books, Harlequin romances, and celebrity exposés jut out from the bestseller list like gargoyles. Worse still are the women's "revenge novels," accusing all males of rage brought on by an excess of testosterone; or the pretentious navel-gazing exhortations of self-improvement; or the Eurobooks produced when literature took a wrong turn, seeking to curry favor with the semiotics professors. These time-killers will always be with us. But never mind. Rowling and O'Brian have proved to publishers and readers that to be a first-rate minor novelist may be the best way to make a major statement: there is a public out there for the so-called reactionary attributes of taste and style and virtue.

And there is more good news from the bookstores. In addition to the popular works of Rowling and O'Brian, a 1,000-year-old monster-filled epic recently became a national bestseller: *Beowulf,* translated by the Irish poet Seamus Heaney. Only a few years back, Homer's *Odyssey,* beautifully translated by Princeton professor Robert Fagles, enjoyed a similar popularity. The Shakespeare explosion is evidenced in the movie theaters, the bookstores, and the Broadway theater, where even Kelsey Grammer, star of the TV sitcom *Frazier,* now seeks to legitimize his reputation by appearing on Broadway in an upcoming production of *Macbeth.* And this explosion occurs in tandem with a renewed enthusiasm for Jane Austen, who seems to have a new film adaptation every year. Indeed, one women's quarterly wonders aloud, "Why All the Buzz About the Lady From Bath?" and goes so far as to picture Miss Austen interviewed by Oprah. Talk about fantasy.

Therefore, readers, take heart. Valuable counter-movements are at work. Giving in to the current cultural backslide would be like Harry Potter surrendering, Captain Aubrey running up the white flag, Ulysses caving to the Cyclops, Beowulf defeated by Grendel. Say no to the Muggles, and carry on. The spyglass is half full.

Urbanities

After Modernism

Roger Scruton

Architectural modernism rejected the principles that had guided those who built the great cities of Europe. It rejected all attempts to adapt the language of the past, whether Greek, Roman, or Gothic: it rejected the classical orders, columns, architraves, and moldings; it rejected the street as the primary public space and the facade as the public aspect of a building. Modernism rejected all this not because it had any well-thought-out alternative but because it was intent on overthrowing the social order that these things represented—the order of the bourgeois city as a place of commerce, domesticity, ambition, and the common pursuit of style.

Modernism in architecture was more a social than an aesthetic project. Le Corbusier, the Russian constructivists, and Hannes Meyer when director of the Bauhaus claimed to be architectural thinkers: but the paltriness of what they said about architecture (compared with what had been said by the Gothic and classical revivalists, for example) reveals this claim to be empty. They were social and political activists who wished to squeeze the disorderly human material that constitutes a city into a socialist straitjacket. Architecture, for them, was one part of a new and all-comprehending system of control.

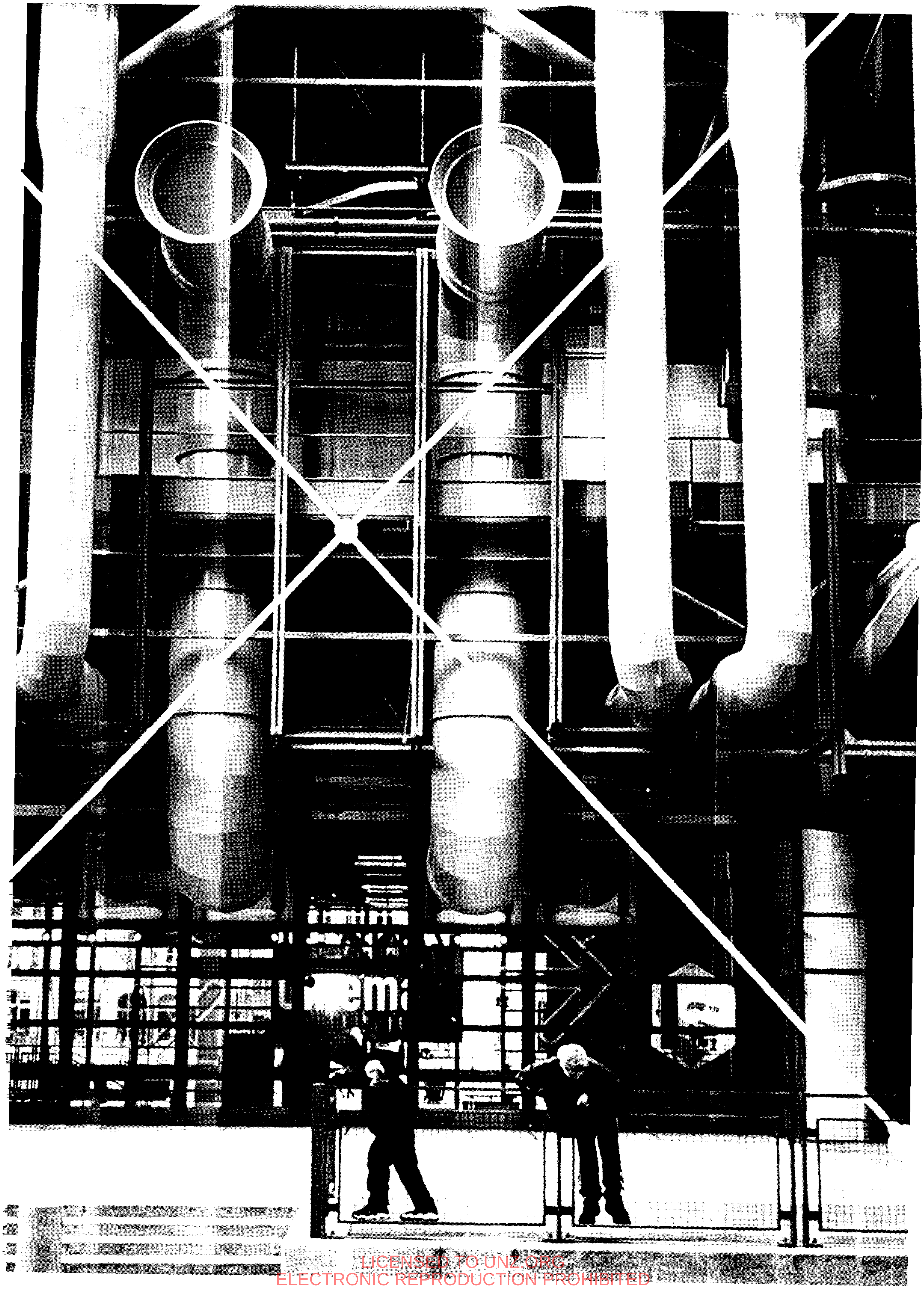
Of course, they didn't call it control: socialists never do. Le Corbusier's project to demolish all of Paris north of the Seine and replace it with high-rise towers of glass was supposed to be an emancipation, a liberation from the old constraints of urban living. Those dirty, promiscuous streets were to give way to grass and trees—open spaces where the New Socialist Man, released from the hygienic glass bottle where he was stored by night, could walk in the sunshine and be alone with himself. Le Corbusier never asked himself whether people wanted to live like this, nor did he care what method would transport them to their new utopia. History (as understood by the modernist project) required them to be there, and that was that.

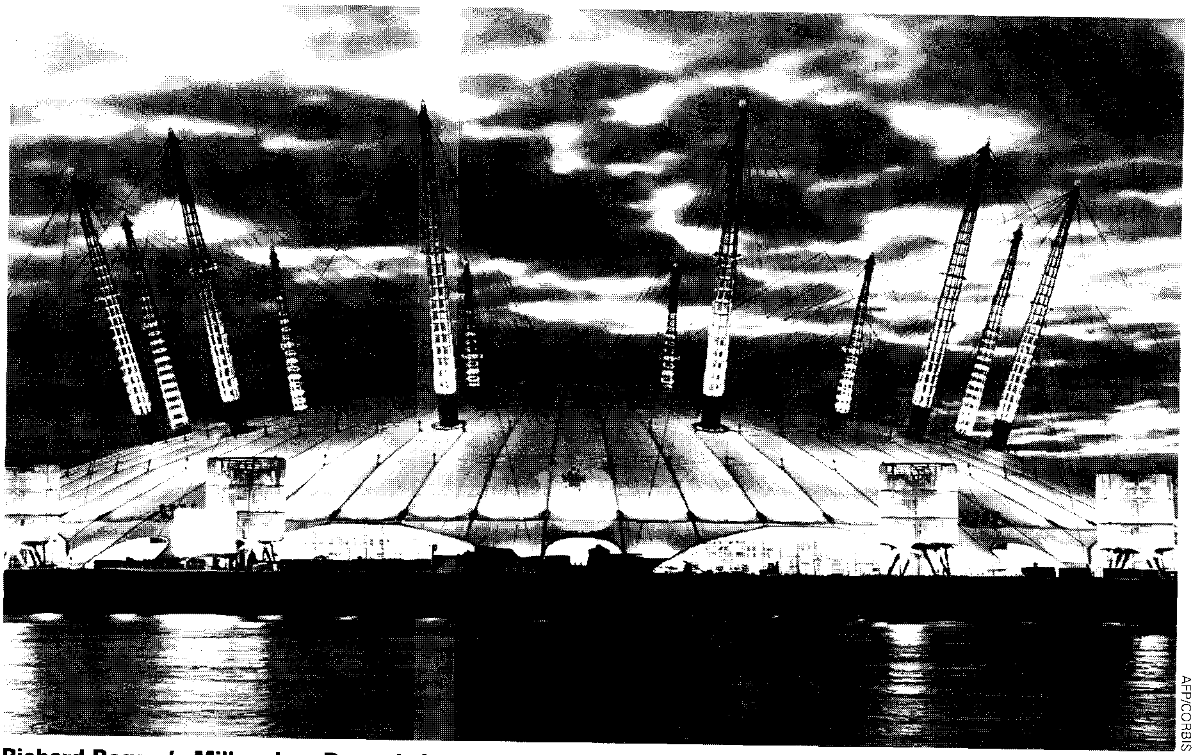
Classical and Gothic buildings spoke of another age, in which glory, honor, and authority stood proudly and without self-mockery in the street. We could no longer use their styles and materials sincerely, the modernists argued, since nobody believed in those old ideals. The modern age was an age without heroes, without glory, without public tribute to anything higher or more dignified than the common man. It needed an architecture that would reflect its moral vision of an equal and classless society from which hierarchies had disappeared. Hence it needed an architecture without ornament or any other pretense to a grandeur that no living human being could emulate, an architecture that used modern materials to create a modern world. The key words of this new architecture were "honesty" and "function." By being honest, modern architects implied, buildings could help us to become so. The new city of glass, concrete, and parkland would be a city without social pretense, where people would live in exemplary uniformity and be rewarded with equal respect.

This social agenda meant that architectural modernism was not an experiment but a crusade. It regarded those opposed to it as enemies, members of a priesthood of pretense to be removed as soon as possible from positions of influence and power. When the German art historian Niklaus Pevsner and the Russian constructivist architect Berthold Lubetkin brought the crusade to London, they set up shop as legislators, condemning everything that was not conceived as a radical break with the past. Both were traveling as refugees from modernism of the political variety—Nazism in Pevsner's case, communism in Lubetkin's—creeds that, like modernism in architecture, preferred elites to people and social control to spontaneous order. These two brought with them the censorious dreariness of the regimes they fled. Nothing was more loathsome in their eyes than the would-be enchantment of a Victorian Gothic bank or a neoclassical school. To Pevsner, Arthur Street's great Gothic law courts—the centerpiece of London's legal quarter and a fitting symbol of common-law justice

A beautiful stone residential neighborhood had to make way for the Centre Beaubourg, Paris's chaotic postmodern fun fair.

ALEXIS DUCLOS/GAMMA/LIAISON





AFP/CORBIS

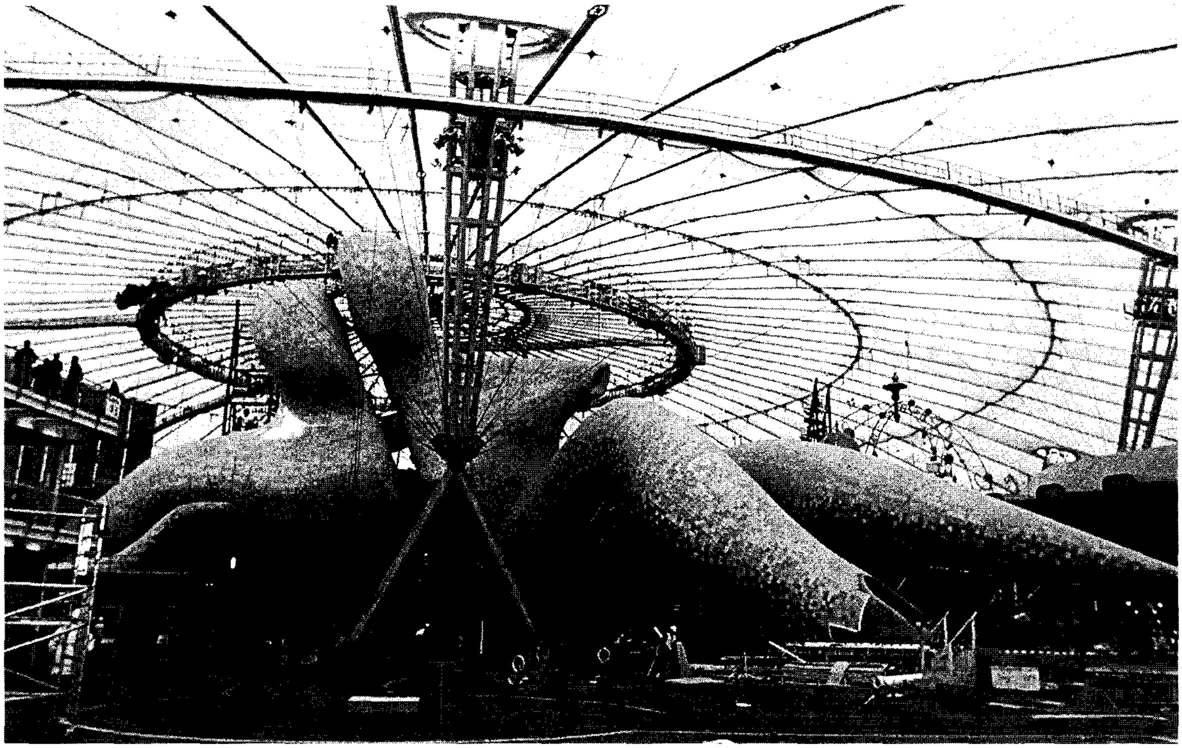
Richard Rogers's Millennium Dome is London's Babylonian temple to Nothingness, . . .

and its daily work of reconciliation—were mediocre buildings of no consequence, whose fairytale pinnacles and marble columns were neither uplifting nor cheerful but merely insincere. By contrast, the Underground station at Arnos Grove, with its plain wrapped brickwork and its grim metal-frame windows, was a portent of a better future world, in which modern life would be honestly portrayed and openly accepted.

For many people, the best thing about modernist music is that you don't have to listen to it, just as you don't have to read modernist literature or go to exhibitions of modernist painting. Architecture, however, is unavoidable. It is not a transaction between consenting adults in private, but a public display. The modernists nevertheless conceived design in terms appropriate to the intimate arts of music, literature, and painting. Their buildings were to be individual creative acts, which would challenge the old order of architecture and defy the tired imperatives of worn-out styles. Modernism's egalitarian mission could be accomplished only by a daring elite, who built without respect for the tradition of popular taste—indeed, without respect for anything save their own redeeming genius. The paradox here is exactly that of revolutionary politics: human equality is to be achieved by an elite to whom all is permitted, including the coercion of the rest of us.

Most users of a building are not clients of the architect. They are passersby, neighbors: those whose horizon is invaded and whose sense of home is affected by this new intrusion. The failure of modernism lies not in the fact that it produced no great or beautiful buildings—Le Corbusier's chapel at Ronchamp and the houses of Frank Lloyd Wright prove the opposite. It lies in the absence of any reliable patterns or types that can harmonize spontaneously with the existing urban decor, retaining the essence of the street as a common home.

Urbanities

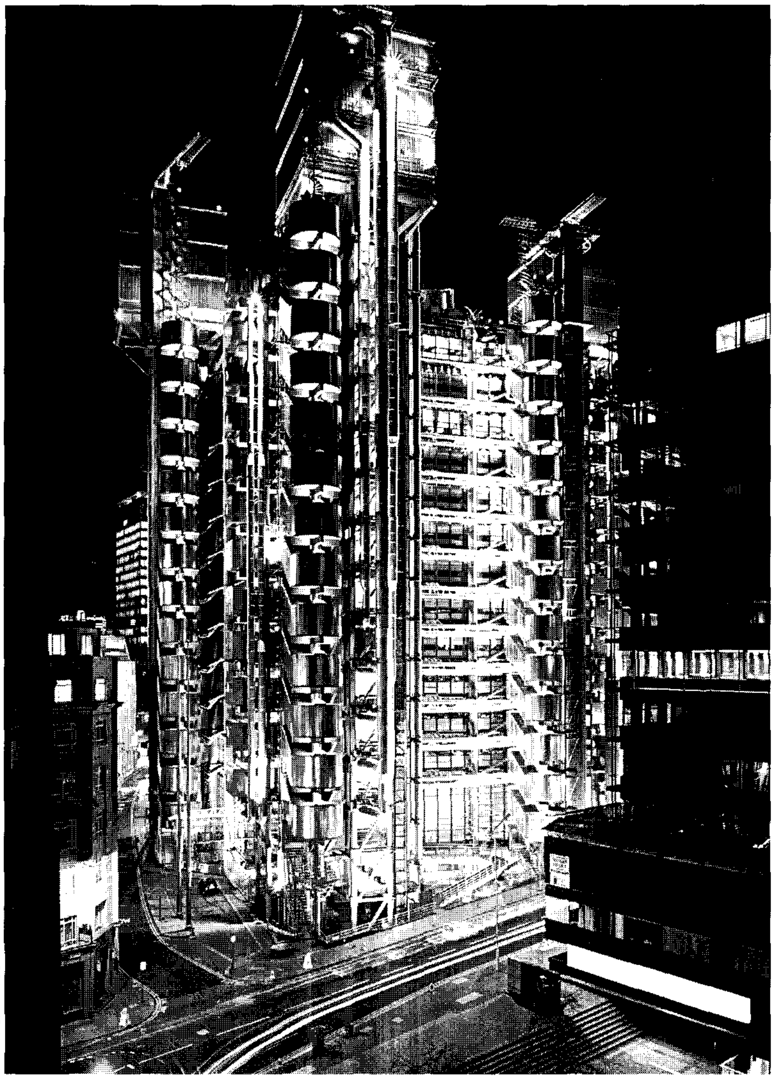

MSI/CORBIS SYGMA

. . . housing exhibits, such as these "body zone" figures, as vacuous as the structure itself.

The degradation of our cities is the result of a "modernist vernacular," whose principal device is the stack of horizontal layers, with jutting and obtrusive corners, built without consideration for the street, without a coherent facade, and without intelligible relation to its neighbors. Although this vernacular has repeatable components, they are not conceived as parts of a grammar, each part answerable to each and subject to the overarching discipline of the townscape. The components are items in a brochure rather than words in a dictionary.

The old architectural pattern books did not offer gadgets and structures. They offered matching shapes, moldings, and ornaments: forms that had pleased and harmonized, and that could be relied upon not to spoil or degrade the streets in which they were placed. New York used them to great effect, and even now they could be used to restore the civility of damaged neighborhoods. The only obstacle is the vast machine of patronage that puts architects, rather than the public, at the head of every building scheme.

Although history can show great architectural projects and great architects who have succeeded in them, both are exceptions. We build because we need to, and for a purpose. Most builders have no special talent and no high artistic ideals. Aesthetic values are important to them not because they have something special or entrancing to communicate but because they need to fit their buildings into a preexisting fabric. Hence modesty, repeatability, and rule-guidedness are vital architectural resources. Style ought to be defined so that anyone, however uninspired, can make good use of it and add thereby to the public dwelling space that is our common possession. That is why the most successful period of urban architecture—the period that envisaged and developed real and lasting towns of great size—was the period of the classical vernacular, when pattern books guided people


GRANT SMITH/CORBIS

When the investors in Lloyd's of London saw its new building (above) arise, they should have foreseen their ruin.

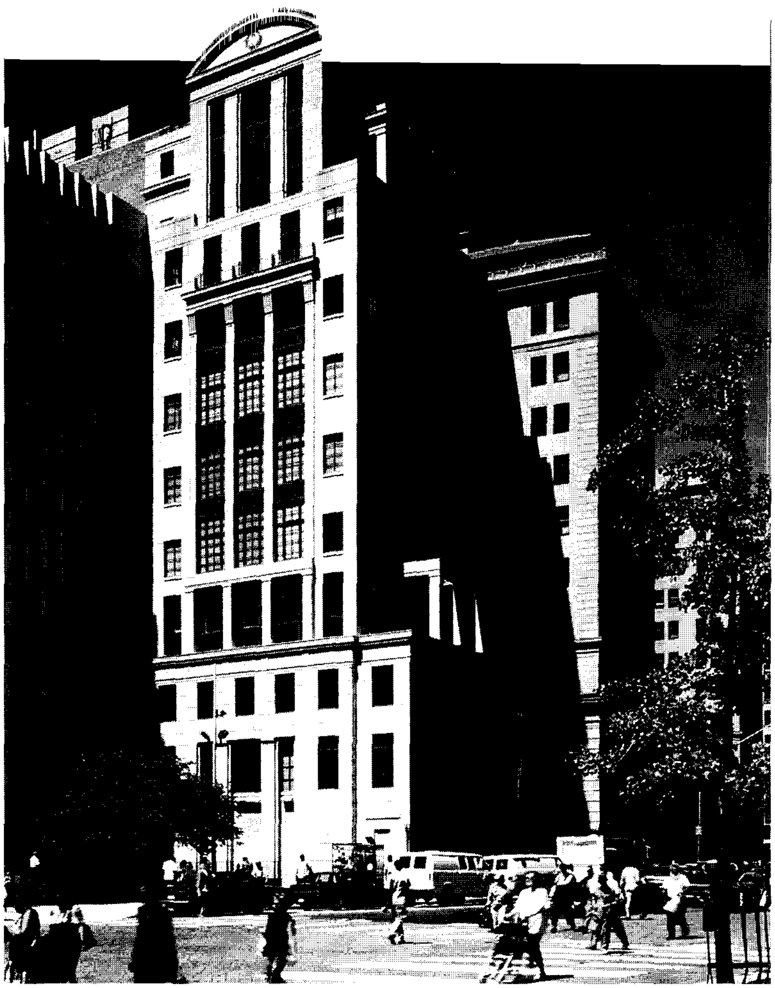
who had not fallen prey to the illusion of their own genius. Routine styles and standardized parts perpetuate the gestures that have won general approval and help us to employ them again without offense.

In American cities, we can still witness the effect of the pattern books (such as that published by Asher Benjamin in Boston around 1800). Whole areas of agreeable and unpretentious dwellings, whose architects are no longer remembered and perhaps no longer even identifiable, have escaped demolition on grounds of the charm imparted by their syntax: Beacon Hill and the Back Bay area of Boston, Greenwich Village, the Upper East Side, much of Brooklyn, and the terraced streets of Harlem are well-known examples. Pattern-book housing of this kind bears the mark of civilization, even when it has degenerated into a slum. It needs only private ownership and the prospect of social and economic security for the population to respond to the call of their surroundings and once again to take pride in them. Hence these neighborhoods can rise again, like the fragments of London's East End and docklands that were not demolished after the war and are now islands of civility in a sea of arrogance. The modernist housing project, built on the model recommended by Le Corbusier and the Bauhaus, never rises from its inevitable decline. When the high-rises and their barren surroundings become areas of "social deprivation"—and it usually happens within 20 years—there is no solution to the problem except dynamite.

This is not to argue that creativity and imagination have no place in architecture. On the contrary. Pattern-book architecture is possible only because of the intellectual and artistic labor that made the patterns. Some of this labor was collective—a far-reaching activity of trial and error, leading to easily managed designs. But just as important as this collective labor has been the individual inspiration that conjures up new and living details, transforming our perception of form. Stylistic breakthroughs create a vocabulary of dignifying details: Gothic moldings, the classical orders, Palladian windows, Vignola-esque cornices. These great artistic triumphs become types and patterns for the ordinary builder, and the vernacular architecture of New York displays all of them. Our best bet in architecture is that the artistic geniuses should invest their energy, as Palladio did, in patterns that can be reproduced at will by the rest of us. For the fact remains that most of the architecture that surrounds us is bound to be second-rate, uninspired, and unspiring, and that its most important virtue will be that of good manners.

That this is wholly unlike the situation in the other arts should be obvious. In music, literature, and painting, there are works of lasting value and others of merely mundane appeal. The mundane examples quickly disappear from the canon and remain interesting only to the scholars. In architecture, however, everything stays where it is, troubling our perception and obstructing our view until something else replaces it. In making innovation and experiment into the norm, while waging war against ornament, detail, and the old vernaculars, modernism led to a spectacular loss of knowledge among ordinary builders and to a pretension to originality in a sphere where originality, except in the rare hands of genius, is a serious threat to the surrounding order.

Because architecture is a practice dominated by talentless people, manifestos and theories of the kind the modernists proliferated are especially dangerous, for they excite people to be bold and radical in circumstances where they should be modest and discreet. The modernists discarded millennia of slowly accumulating common sense for the sake of shallow prescriptions and totalitarian schemes. When architects began to dislike the result, they ceased to be modernists and called themselves postmodernists instead. But there is no evidence that they drew the right conclusion from the collapse of modernism—namely, that modernism was a mistake. Postmodernism is not an attempt to avoid mistakes, but an attempt to build in such a way that the very concept of a mistake has no application.



PETER AARON/ESTO

Robert A. M. Stern's Brooklyn Law School points in the right direction—not to postmodernist but to premodernist architecture.

Modernism was severe—it had to be, since it was taking a stand against popular taste, hunting down kitsch and cliché in their fetid lairs and dousing them with the cultural equivalent of carbolic acid. Postmodernism announces itself as a liberation; its aim is not to take the side of high culture against kitsch but to play with both of them. Postmodernist art is nonjudgmental: at home with affluence, advertising, and mass production, as tolerant of popular taste as of the modernist contempt for it. We are living beyond judgment, beyond value, beyond objectivity—so the postmodernist movement tells us. We are not in the business of forbidding things but rather of permitting them.

It turns out, however, that everything is permitted except the thing we most need: a return to the centuries-old conception of architecture as a practice bound by publicly accepted rules. The postmodernists ruled this out of court as much as their censorious modernist predecessors did. Any return to the values of the classical vernacular, with its emphasis on the street and the facade, is branded a betrayal of history, a retreat into "nostalgia," and in any case no better than pastiche.

That argument, more or less diluted by fashionable relativism, is the reigning orthodoxy of the schools of architecture and the machine of public patronage. Hence the way to win commissions is not to propose a building that will fit into its place as though it had always stood there and be as unnoticeable as good manners require but rather to invent something outrageous, insolent, and unignorable.

Following the stern cast-concrete forms of modernism, therefore, has appeared a new kind of flamboyant building: brightly colored girders exposed to view, tubes and wires rioting over the surface, ornaments stuck anyhow onto surfaces of transparent Lucite or shimmering tiles. The effect shows a freedom from constraint that reminds you why constraints are a good idea. At its most aggressive—and it is usually aggressive—it may involve the deliberate "deconstruction" of the forms and values of the classical tradition, in the manner of Bernard Tschumi's student center at Columbia or of the monstrous yet culpably vague designs by Peter Eisenman for the redevelopment of the West Side of New York. If a justification is required, then the project will be backed up with pretentious gobbledygook in the style of Eisenman, offering concepts and theories and abstract ideas in the place of visual logic.

Britain's reigning postmodernist panjandrum is Richard Rogers (now Lord Rogers)—the architect who, together with the modernist Norman Foster (now Lord Foster), receives all the important commissions and sits on all the important committees. Rogers belongs to the generation of postwar architects trained in modernist rhetoric, who were taught very little about style and everything about public relations. Recognizing the public hostility to modernism, many of these architects have hastened to declare modernism officially dead and to welcome the new era of freedom of which they are the champions.

Rogers made his reputation in partnership with Renzo Piano at the Centre Beaubourg in Paris. This cultural center and exhibition hall is like a demented child's model of a spaceship, dumped inexplicably in the city. True to the postmodernist spirit, it is decorated with functionless tubes and scaffolding, whose decorative effect depends upon being perceived as functional, like the chrome-plated exhaust of a racing car. Its colors are not those of the materials used to build it but of the paints that disguise them. Its joints and load-bearing parts are concealed, and nothing is really visible that is not surface. It is a slap in the face to the modernist principles of honesty, truth to materials, and functional transparency. In this respect, you might very well be taken in by Rogers's claim that modernism is a thing of the past.

In fact, however, the Centre Beaubourg is the first real triumph in Paris of the modernist idea. It is a step toward achieving Le Corbusier's goal of razing the city to the ground. The Centre Beaubourg required the demolition of a vast and beautiful tract of stone-built classical vernacular and the imposition of a recreational purpose on what had previously been a living *quartier* of the city. The project was guided by a social vision—namely, to exchange the quiet, self-sustaining life of bourgeois Paris for a fast-moving, multimedia "happening" that would be maximally offensive to bourgeois values. Its loud colors and in-your-face externals, its shape, size, and materials—above all, its windowless and doorless sides, which warn you away with metallic imperviousness—all these are signs of a profoundly motivated effrontery, a desire to uproot and disenchant the domestic life of one of the world's greatest cities and to replace both work and home with an undisciplined playground.

This is not the socialist project, and we are in one sense a long way from the Bauhaus and Le Corbusier. The modernist program focused on work, discipline, and the regimented life of the new proletariat: Le Corbusier's definition of a house as a "machine for living" says more about his conception of life than his ideal of architecture. Life, for the modernists, was all work and no play, with just an occasional stroll outside for hygienic reasons. The Centre Beaubourg is a celebration of play, randomness, and indiscipline. It is a machine for playing, and the machinery is part of the joke.

Nevertheless, there is a sense in which we are in the same aesthetic territory as the modernists. For this architectural enterprise has no meaning apart from the social experiment of which it is the vehicle. The assumption of originality is the perfect and ready-made excuse for an insolence that is socially and politically motivated. Although Le Corbusier could have designed his fantasy city for some green-field site, he expressly insisted on Paris. Revolutionary projects aim at the destruction of existing things, and the future "alternative" is always as vague as a drawing by Peter Eisenman. Likewise, the Centre Beaubourg could have been built anywhere, but in that case it would have lost its point. The real goal was to wipe away the history of the city and to plant in the midst of bourgeois Paris the seeds of the anti-bourgeois revolution. The Centre was President Pompidou's idea, and he conceived it as a way of announcing to the world that he was, in the last analysis, on the side of history and a friend of the anti-culture of 1968. This was the message that motivated him in choosing the outrageous designs of Piano and Rogers.

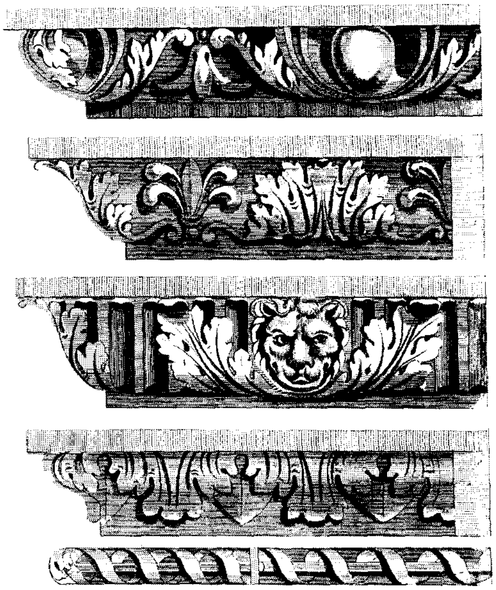
The postmodernist project has also visited London with the same effect. Perhaps the most impressive symbol of the old city of London and its institutions was the insurance company of Lloyd's. This began life in 1668, among the club of merchants who were in the habit of meeting at the Edward Lloyd Coffee House and who decided to establish an institution with which to protect one another from bankruptcy. English commercial enterprise relied upon bonds of honor that fell critically short of intimacy and could therefore be extended far and wide through the world of strangers. Hence institutions like Lloyd's could appeal for capital from outside the community of city traders. The "names" who provided this capital to the underwriters were people of wealth and standing, who implicitly trusted this institution run by gentlemen, and who thought nothing of placing their entire possessions in the hands of a discreet and well-spoken stranger.

The underwriters treated the solid, well-furnished building of Lloyd's as a clubhouse; they shrouded its routines in mystery like the rituals of a church; and the old bell of the frigate *Lutine*, captured from the French in 1793, sounded eerily through its hallway to announce the loss or arrival of a strategic merchant vessel. It was the very image of the safety that the English associated with their homeland, and its well-bred investors somnolently assumed that such an institution would last forever, an unsinkable rock amid the tides of misfortune that afflicted lesser men. When a new board of directors decided to demolish the Victorian clubhouse and erect a grotesque piece of postmodernist kitsch by Rogers in its place, the "names" continued to dream in their country houses, unaware that the bottom had fallen out of their world and that the proof of this was standing now on top of it.

One glance at Rogers's building, constructed at vast expense and functioning so badly that it is the subject of continuous, expensive repair, ought to have awakened the "names" to what had happened. This tower, ridiculous as architecture, is manifestly part of a social project: it is an affront to the old conception of the city and a harbinger of the new world of corporate finance—a vertical playground, with the childish metalwork and intergalactic shapes familiar from the Centre Beaubourg and transparent external elevators carrying the new breed of whiz kids high above the streets of old London. It is a sign that seriousness and probity are things of the past; from now on, everything is fun. And part of the fun will be to deprive those trusting old gentlemen of their family fortunes.

Shortly after the erection of this building, Lloyd's collapsed, the English squirearchy—heavily invested in Lloyd's—faced ruin, and the city institutions joined the Church of England and the Tory Party as things of the past. Richard Rogers, meanwhile, was knighted and subsequently raised to the peerage by a Labour Party grateful for his assaults on the old establishment and eager for his support in Parliament. In this spirit, Prime Minister Blair's first attempt to confront the problem of the inner cities, devastated by centrifugal development and modernist housing schemes, was to appoint a commission on urban renewal, with Lord Rogers at the head of it.

Perhaps the culminating postmodernist project has been the Millennium Dome, the Babylonian temple to Nothingness that Rogers built down the river from



With pattern books like Asher Benjamin's, talentless builders produced pleasing structures.

London in Greenwich—again, nugatory as architecture and eloquent as the expression of a social idea. Until very recently, great public projects were designed to last. In the nineteenth century, for instance, promoters of exhibition architecture, such as the Grand Palais and Petit Palais in Paris, gave their buildings ceremonial and permanent exteriors and conceived of them as celebrations of the city and its achievements and contributions to the public life that would be lived in their shadow. By contrast, the Millennium Dome's promoters conceived of it from the beginning as temporary—a vast tent whose purpose would expire when sufficient numbers had bought their tickets and wandered in baffled lines around its exhibits. Void of all architectural signifiers, impressive, if at all, only as a work of engineering, this fleeting visitor from another planet is part of the same broad social program as the Centre Beaubourg—the program of disestablishing the old culture of our cities and putting a fun-filled playground in its place.

Hence its very temporariness is integral to its effect. Nothing endures, it tells us; nothing has meaning beyond the moment. The exhibits match the architecture: the past of the country, its institutions, monarchy, and religion, its imperial triumphs, its achievements in war, and its leading role in the spread of law and democracy—these are either reduced to insignificance or ignored. All is fun—but fun with a vengeance. Visitors wander through a video arcade, as buskers and steel bands try to whip up an excitement the exhibits could never inspire on their own, glimpsing the very same images that they could obtain by twirling the knobs on their televisions. Even the crowning exhibit—the body zone, in which two humanoid creatures tower to the roof—finds nothing meaningful to say about the human figure. All you are given is a lesson in pop physiology, with a tour through the inner organs of a faceless ape, entering through the nether regions, past pubic hair infested with lice.

The prime minister often refers to the Dome as if he had ways of making us enjoy it; he has dismissed its critics as lacking in patriotism, and he has piled more and more public money into servicing the debt of a project that has so far attracted little attention. Nor should we mistake the social agenda. The politically correct exhibits have one overriding purpose: to flatten out the landscape of our national culture and to put a bland, "inclusive" multiculture in its place. The project's greatest box-office success to date was "Domosexual Day," when the dome was packed with London's homosexuals, flooded with pink light from outside, and filled with giggles within. In order to revive its flagging fortunes, the Dome company has employed Pierre-Yves Gerbeau, former executive of Disneyland Paris, to draw in the crowds. What was to have been a celebration of Britain and its people for the millennium is now a Franco-American fun palace, complete with ushers disguised as Coggsley and Sprinx—comic-strip characters in supermarket colors—professional lowerers of the tone, who will perform the function of Goofy and Donald Duck in Disneyland.

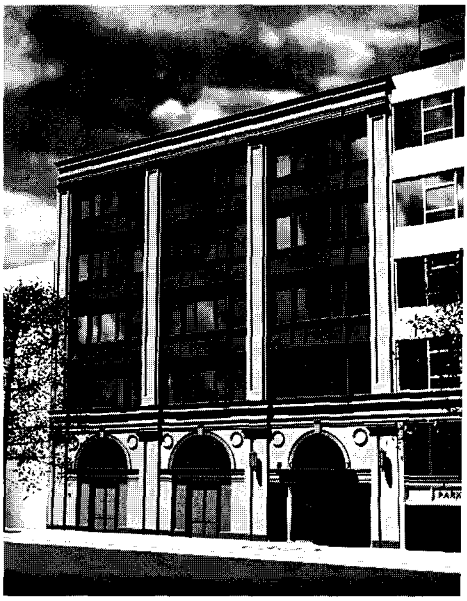
In the temple of the Dome, we encounter what Joyce would call God's funferall. Many Englishmen view the sight with revulsion. They recognize that cities are built, and civilizations sustained, from the human need for permanence. The postmodernist project is an attempt to deny that need—to deny it collectively, like the dance of the Israelites around the Golden Calf. The frivolity of postmodernist architecture is of a piece with its spiritual idolatry—its worship of the moment and its refusal to be bound by any law. In the face of this, it seems not only that modernism was a mistake but that postmodernism compounds the mistake, by removing the one thing that might rectify it: the desire for permanence.

You could undo the work of modernism tomorrow by a simple expedient: by abolishing all architects, equipping builders with the pattern books that created Beacon Hill or Lower Manhattan, and laying down regulations governing heights, depths, and street lines—in other words, by returning to what was once standard practice. In this respect, the message of the postmodernists is the old one: that we must always be new. If modernism has failed, then the answer is not to retrace our steps, like architects Quinlan Terry or Léon Krier, but to press on still further into the anti-architecture of Eisenman or Tschumi or the kitsch monumentality of Rogers.

It is one of the marvels of the modern world that human beings, having proceeded along a path that leads manifestly to error, can yet not turn back but must always exhort themselves to go further in the same direction. It is with modern architecture as it has been with socialism, sexual liberation, and a thousand other modern fads: those who defend them draw no other lesson from their failure than the thought that they have not yet gone far enough. Our present need is not for the uncoordinated and dislocated architecture that the postmodernists would wish on us but for an architectural grammar that would permit talentless people once again to build inoffensively. That is what the classical pattern books taught, and that is why there was such a thing, before modernism came on the scene, as a serious architectural education that could prepare ordinary human beings for the enormous responsibilities involved in building the environment of strangers.

What is needed, in short, is not a postmodernist but a premodernist architecture. And here and there this architecture is beginning to emerge: Allan Greenberg's neoclassical court building in Manchester, Connecticut (converted from a derelict modernist supermarket); Greenberg's proposed new addition to the Decoration and Design Building on Manhattan's Third Avenue; the Harold Washington Library in Chicago by Hammond, Beeby and Babka; Robert Stern's Brooklyn Law School tower, which revives the cheerfulness of the vernacular skyscraper—these and many other attempts point us in the right direction, not forward but backward, to what had been lost.

Moreover, architects and critics are now finding the words, and the confidence, to express the once-forbidden thought that you can be modern without being modernist—that there can be an architecture for our time that derives from permanent values rather than ephemeral social projects, that gives new life to the grammar, and the search for harmony and decorum, of the architecture of the past. Modernism is dead; but classicism survived, as it has always survived. Last month there took place in Bologna, sponsored by the city, the latest in a series of traveling conferences devoted to classical architecture, showcasing modern but premodernist buildings and allowing their architects to explain them to the world. The purpose was to show that modernism was a mere ideology, as dead as the totalitarian political projects whose inspiration it shared. And first among the concerns of the architects who explained their work was to show how we might undo the work of the modernists, encasing their buildings in classical shells as Greenberg has done, veneering them with facades in the same spirit as we veneer ourselves with politeness.


ART LOHSEN/AGA

Allan Greenberg's urbane *addition to the D&D building* will rise on Third Avenue.

Maybe these are small beginnings. But small beginnings are much to be preferred to enormous dead ends.

How to Read a Society

Theodore Dalrymple

In the days—simultaneously not so very long ago and in the ancient past—when communism seemed a permanent feature of the political landscape, I traveled extensively on the other side of the looking glass that divided the world into two opposed camps. I did not take with me as literary guide and compass to my travels one of the Marxist-Leninist "classics": not because the works of Marx and Lenin failed to explain anything I found through that looking glass, but because the explanation they offered was all too obvious and self-evident. If it was difficult for a visitor to find anything to eat impromptu in Moscow, Havana, Tirana, Bucharest, or Pyongyang, it took little effort to understand the connection of this difficulty with the vulgar anti-commercialism of Saint Karl and Saint Vladimir. Indeed, it would have taken all the ingenuity of the cleverest academics *not* to have understood it.

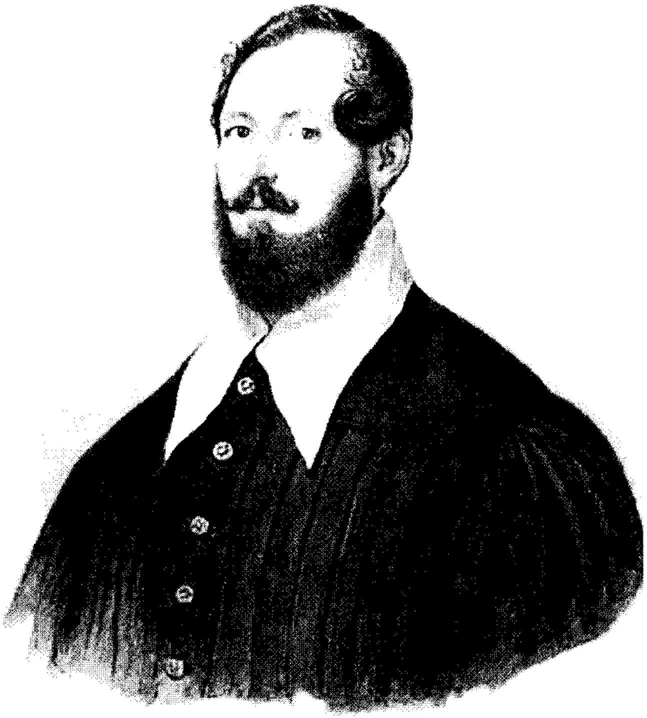
I took with me instead a work by a nineteenth-century French aristocrat, the Marquis de Custine. First published as a series of letters in 1843 under the title *La Russie en 1839*, the book has since appeared in a multiplicity of formats and abbreviated versions, with various titles in English, suggesting that even its translators and most fervent admirers do not consider it a flawless work of literary art. And yet this travel book is undoubtedly a masterpiece, a work of such penetration and prescience that it is worth reading more than a century and a half after its composition, not only for its antiquarian or historical interest but because of the incomparably brilliant light it sheds on one of the most important phenomena of the last hundred years: the spread of communism throughout the world. Writing before the development of modern "scientific" sociology, whose achievement has been to obscure by means of statistical legerdemain the importance of human consciousness, Custine analyzed Russian society by reference to the psychology of the individuals who made it up. His work is a supreme example of the subtle interplay between the abstract information about a political system and the imaginative entry into the worldview of the people who live in it that is necessary for the understanding of any society.

Custine's book is a prolonged meditation upon the effect of a particular political regime and its institutions upon human character, thought, and action—and, by implication, a meditation upon the dialectical interplay of political conditions and human character everywhere. As Custine well understood, the effect of czarism upon the Russian psyche was pregnant with significance for the future, not just for the Russians themselves but for the whole world, because Russia was destined to play so large a part in the world's history.

For when you read Custine, you realize that the spread of communism was not of an ideology alone but of an entire political culture: the culture of Russian despotism, which paved the way intellectually, and served as a practical exemplar, for Marxism's millenarian totalitarianism. Without the prologue of czarist despotism, Marxism would not have triumphed in Russia. And without the Russian Revolution, whose "success" so many foreigners strove to imitate, far fewer Marxist regimes would have been set up throughout the world, and none in Eastern Europe. As Stalin's literary commissar, Zhdanov, might have put it, the communist regimes that proliferated in the twentieth century were Russian in form but Marxist in content—just as approved literature by non-Russian-language authors in the Soviet Union was supposed to be national in form but socialist in content.

Custine visited Russia for only three months; he spoke no Russian (though the Russian upper class of the time spoke French fluently and even preferred to converse and think in that language). While he had read books about Russia, he was in no sense a scholar of Russian affairs. Yet the book he wrote after so short a sojourn in the country was infinitely more valuable than those written by men with a vastly more detailed knowledge of Russia than his. On reading *La Russie en 1839*, the exiled Alexander Herzen declared it the best book ever written on the subject and lamented that only a foreigner could have written it.

A third of Custine's long book concerned only his first few days in Russia, when his impressions were no doubt at their most intense, as travelers' impressions always are on their first arrival: but even had Custine returned to


The Marquis de Custine

France after those few days and written nothing more than the first third of his book, he would have provided more insights into Russia, and hence into the subsequent fate of an all too considerable proportion of humanity, than any other writer of the nineteenth century.

How was this feat possible? What distinguished Custine from so many other observers? What were the methods and underlying assumptions that enabled him to penetrate so deeply in so short a time?

Custine displayed a remarkable talent for extracting the social and psychological meaning of small events that to others might have seemed insignificant. For example, on his arrival in Saint Petersburg, border guards and customs staff subjected him to a minute and pointless examination the like of which he had not remotely experienced anywhere else, though he was a well-traveled man. "Each of these men discharges his duty with a pedantry, a rigour, an air of importance uniquely designed to give prominence to the most obscure employment," he noted. "He does not permit himself to say so, but you can see him thinking approximately this: 'Make way for me, I am one of the members of the great machine of the State.' " Unlike less reflective observers, Custine asked why the Russian officials should have behaved with such a manner, keenly aware that men inhabit a mental and not just a physical world and that their conduct is determined by their thoughts about the world as they have experienced it. He surmised that these border officials had been deprived of all true discretion and were deeply fearful themselves of the power to which they were subordinate. Custine described them as "automata inconvenienced with a soul": a description true, perhaps, of all bureaucrats fearful for their jobs but truest of all where power is both arbitrary and completely centralized, as it was in Russia. Their conduct was the revenge of men constrained to behave like machines: a revenge not upon the author of their servitude, of course, for that was impossible at the time, but upon those who fell within their extremely limited power.

No doubt Custine's family history and upbringing had heightened his acuity. His grandfather was a liberal aristocrat who became a general in the revolutionary army, but whom the Jacobins guillotined as not sufficiently devoted to the cause. Custine's father went to the guillotine for having tried to defend him. Custine's mother, imprisoned as an enemy of the people for having tried to defend her husband, narrowly escaped execution herself, largely because one of the revolutionary fanatics who arrested her fell in love with her. Astolphe de Custine was brought up for a time by a faithful servant, living in penury with her in the only room of the Custine home that had not been looted and sealed off by Jacobin zealots and thieves. Such a background was likely to produce a man aware of the deep subterranean currents in life and not easily deceived by appearances. The evils of envy and hatred masquerading as humanitarian idealism had darkened his life from its outset, stamping him as a man quick to search for the reality behind the expression of fine sentiments.

He needed all his shrewdness to penetrate behind the veneer of Russia. He frequented mainly upper-class circles, traveled comparatively little, and studied no statistics. Accused of having visited Russia for too short a time to have drawn conclusions, he replied, "*Il est vrai, j'ai mal vu, mais j'ai bien déviné*": which might be translated as, "Yes, I have seen little, but I have understood much."

Custine grasped that the propensity to deceive and to be (or to pretend to be) deceived lay at the heart of Russia's evident malaise. The maintenance of despotism depended upon this universal vocation for untruth, because without the fiction that the despotism was necessary, that it conduced to the happiness and well-being of all, and that any alternative would be disastrous, the subject population would cease to be controllable. The inability to speak even the most evident truth perverted all human relationships and institutions. And of course the lie came to be the foundation of all twentieth-century totalitarian regimes, without which they could not survive. "The political system of Russia," wrote Custine, "could not withstand twenty years of free communication with Western Europe."

Unlike so many gullible intellectuals of the twentieth century who visited communist countries in the spirit of religious pilgrims, Custine understood only too well both the techniques and the meaning of the attempts to deceive him. "Russian hospitality, bristling with formalities . . . is a polite pretext for hampering the movements of the traveller and limiting his license to observe," he concluded. "Thanks to this fastidious politeness, the observer cannot visit a place or look at anything without a guide; never being alone he has trouble judging for himself, which is what they want. To enter Russia, you must deposit your free will as well as your passport at the frontier. . . . Would you like to see . . . a hospital? The doctor in charge will escort you. A fortress? The governor will show it to you, or rather, politely conceal it from you. A school, any kind of public establishment? The director, the inspector, will be forewarned of your visit. . . . A building? The architect will take you over all its parts and will, himself, explain everything you have not asked in order to avoid instructing you on the things you are interested in learning." No wonder, he added, that "the most highly esteemed travellers are those who, the most meekly and for the longest time, allow themselves to be taken in." No visitor to a communist country could fail to recognize the description.

For the whole elaborate charade of despotism to work, for the pretense that the despotism is both indispensable and conducive to the welfare of all, everyone must appear to believe in it—including the despot himself. The czar, as a consequence, remains trapped in a permanent state of fear and irritation, because he knows that he is not in fact omnipotent, but he cannot acknowledge openly this obvious fact and he cannot permit anyone or anything else to question the pretense on which his authority depends. "Subjecting the world to his supreme commands," Custine says of him, "he sees in the most insignificant events a shadow of revolt. . . . A fly that buzzes unseasonably . . . humiliates the Czar. The independence of Nature seems to him a bad example." Any rebellious behavior on the part of the meanest of his subjects assumes a disproportionate importance and must be ferreted out and put down. So the czar, through an army of spies, must keep an eye on everyone. He is "both eagle and insect, soaring above the rest of humanity and at the same time insinuating himself into the fabric of their lives like a termite into wood." His position compels him to be paranoid: "an Emperor of Russia," wrote Custine, "would have to be a genius . . . to keep his sanity after twenty years of ruling." Such, of course, was precisely the problem all communist dictators faced.

If the czar is all-powerful, he is of course responsible for everything: therefore nothing untoward can happen in the country without the imputation of the czar's ill will. But in that case, how is the imputation of omnipotence to be reconciled with that of perfect benevolence? If something terrible happens to innocent people, either the czar must not be omnipotent or must not be benevolent. The only way to square the circle is to lie oneself and be deceived when others lie in similar fashion: to see no evil, hear no evil, and speak no evil, even when evil abounds.

For example, shortly after his arrival in Russia, Custine went to the annual festival at the palace of Peterhof, a festival of such magnificence that it took 1,800 servants to light 250,000 lamps for it. Visitors reached the palace by boat from Saint Petersburg, and one boat had sunk in a storm on the way to the festival with the loss of all its passengers and crew. But because "any mishap [in Russia] is treated as an affair of State" in Russia, and because "to lie is to protect the social order, to speak the truth is to destroy the State," there followed "a silence more terrifying than the disaster itself." In Russia, people of the highest social class—as were the boat's

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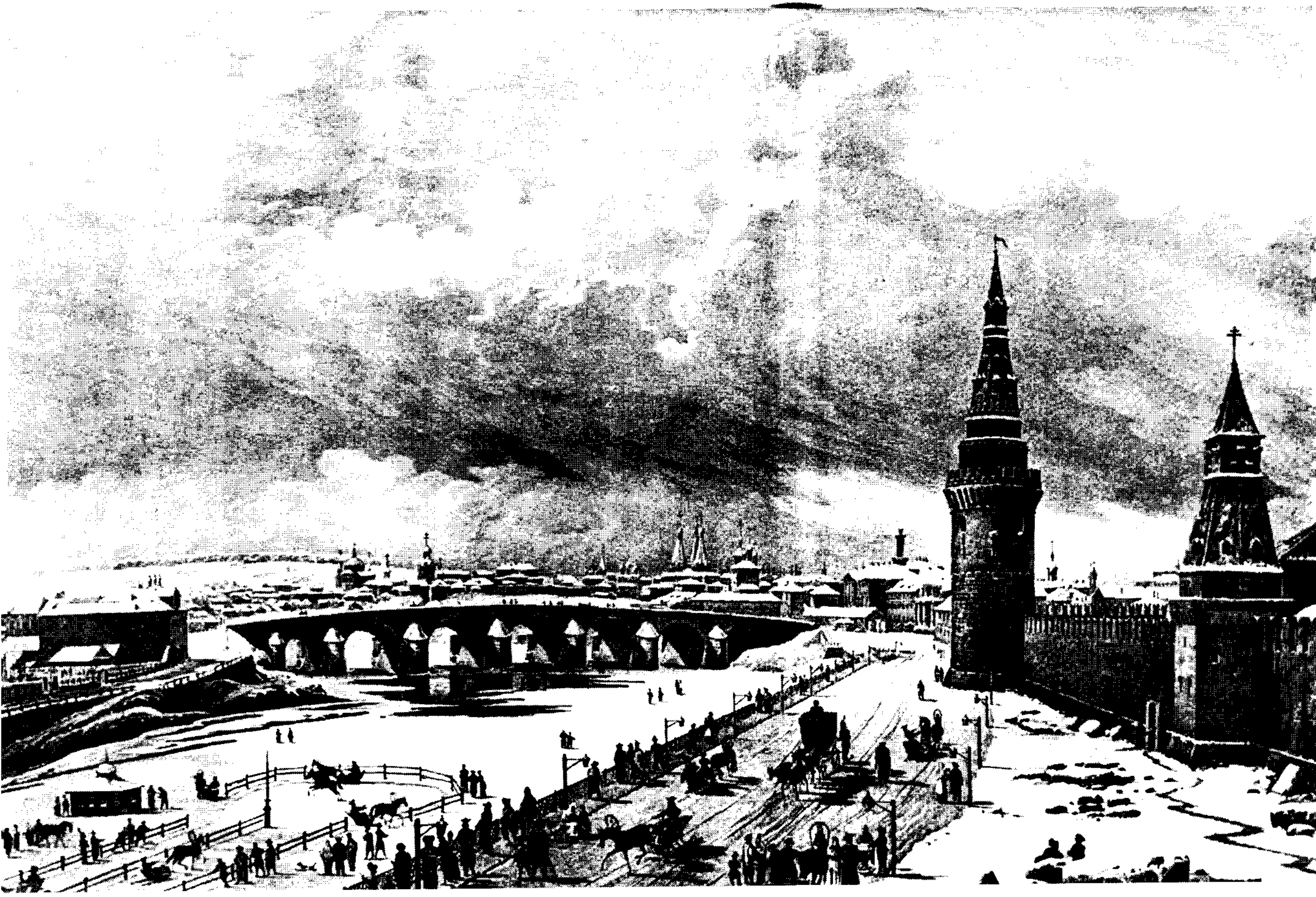


Custine saw in the Moscow of the 1830s (above) how despotism deforms all human relations.

passengers—could disappear not only without a trace but without comment. Who in such a country could ever feel safe?

The silence encompassed not only current events, but extended back into history. A Russian nobleman, Prince Peter Koslovsky, had warned Custine before his arrival in Russia that in his country "despotism not only counts ideas and sentiments for nothing, but remakes facts. It wages war on evidence and triumphs in the battle. . . . [The Emperor's] power is more far-reaching than God's, for God makes only the future, while the Czar remakes the past." Custine's experience repeatedly proved this insight true. No previous czar was ever mentioned in conversation, he learned, to avoid the suggestion that the present czar was not immortal. For this same reason, Custine noted that Russians did not dare look at the palace in which the czar's father, the emperor Paul, was murdered: for "it is forbidden to recount, in the schools or elsewhere, the story of the death of the Emperor Paul."

When a man fell from grace, he not only ceased to exist, he ceased ever to have existed. "M. de Repnin governed the Empire and the Emperor. M. de Repnin has been in disfavour for two years and for two years Russia has not heard this name spoken—this name which two years ago was on every tongue. No one dares to remember him or even to believe in his existence—either his present existence or his past existence. In Russia, the day a minister falls, his friends become deaf and blind. A man is buried as soon as he appears to be in disfavour."

Communist regimes went yet further in the creation of unpersons, of course, striking them out of photographs and encyclopedias (on the fall of a formerly prominent Soviet personage, the publishers of the *Great Soviet Encyclopaedia* would send out substitute entries to paste over that unpersonage's entry). But the precedent had been set many years before.

Custine appreciated only too well the violence that this remaking of history did to the minds of men, and the consequences it had for their character and behavior. In order not to look at the palace in which the emperor Paul was murdered, a person had to know that he was killed there; but his whole purpose in not looking at the palace was to demonstrate in public his ignorance of the murder. He thus had not only to assert a lie but also to deny that he knew it was a lie. And all officials—the emperor included—had likewise to pretend that they did not know they were being lied to, or else the whole edifice of falsehood would have come tumbling down.

The need always to lie and always to avoid the truth stripped everyone of what Custine called "the two greatest gifts of God—the soul and the speech which communicates it." People became hypocritical, cunning, mistrustful, cynical, silent, cruel, and indifferent to the fate of others as a result of the destruction of their own souls. Moreover, the upkeep of systematic untruth requires a network of spies: indeed, it requires that everyone become a spy and potential informer. And "the spy," wrote Custine, "believes only in espionage, and if you escape his snares he believes that he is about to fall into yours." The damage to personal relations was incalculable.

If Custine were among us now, he would recognize the evil of political correctness at once, because of the violence that it does to people's souls by forcing them to say or imply what they do not believe but must not question. Custine would demonstrate to us that, without an external despot to explain our pusillanimity, we have willingly adopted the mental habits of people who live under a totalitarian dictatorship.

Custine could wring meaning even from stones: a great interpreter of the meaning of architecture, he caught from the buildings and streets of Saint Petersburg another deep glimpse into the Russian soul. The city, to which he did not deny a certain beauty, was to him the physical embodiment of despotism. It was founded as the imperial capital not for the benefit of the Russians, as the natural expression of their economic or social activity, but as a permanent bulwark of the czarist regime in the Baltic against the Swedes. The very selection of the terrain—a freezing swamp—for the construction of a city by the fiat of the czar was an expression of contempt for humanity, for in such a place construction necessarily entailed the deaths of hundreds of thousands of men. Custine noted that the stucco that veneered Saint Petersburg's grandiose government office buildings—"temples erected to clerks," he called them—was a material peculiarly unsuited to the Russian climate, such that it took thousands of workmen to restore the crumbling stucco in the three-month plastering season every year, large numbers of them meeting death in the process because of the flimsy scaffolding on which they worked. Only where human labor—and life itself—ostentatiously counted for nothing could such a system of building maintenance have been envisaged, let alone tolerated.

Custine noted that the streets of Saint Petersburg were much too wide for the city's population and that the vast public spaces were bound to make a man feel overwhelmed and insignificant. In such vastnesses, no assembly would constitute a crowd unless it were scores of thousands strong. And this was the political purpose of such spaces: for in Saint Petersburg, as Custine wrote, "a crowd would be a revolution." Intimidating gigantism of this kind—a constant feature of communist town planning, from Bishkek in Kirghizia to Bucharest in Rumania, from Pyongang in North Korea to Minsk in Byelorussia—discouraged spontaneity, the enemy of all despotism.

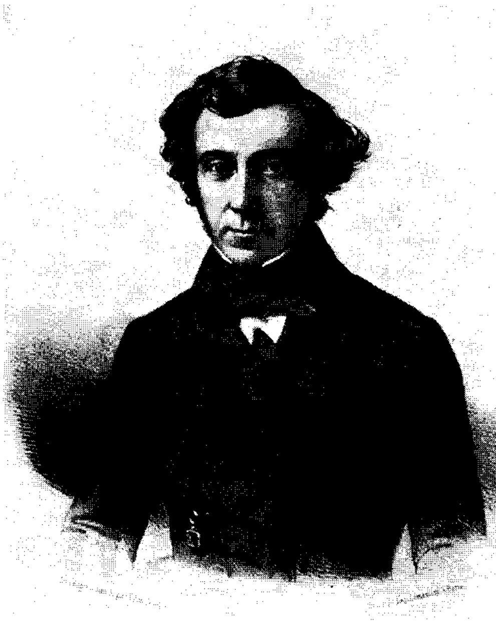
But if no crowds could spontaneously gather, organized parades often filled the vast public spaces. "The taste for [military] reviews is pushed in Russia to the point of madness," Custine wrote. "I am not moved to laughter; puerility on a vast scale is to me an appalling thing. . . . [I]t is only with blindly submissive peoples that a ruler can demand immense sacrifices to produce trifles."

So I witnessed in North Korea, when a parade of hundreds of thousands of people—men, women, and children—marched past the despot, for no better reason than that there were delegations of foreigners in the city. They had been rehearsing the parade, so a diplomat told me, for six months beforehand, often until two or three in the morning. The military order of these ranks of civilians was terrifyingly impeccable: they performed maneuvers with the precision of a machine. But their faces were blank with exhaustion and permanent terror. Their immense sacrifices had been made toward their own complete subjugation as human beings, while the despot smiled at and waved to them, as if he imagined the whole event were a spontaneous demonstration of their affection for him.

Custine would have understood. "This member of the machine," he wrote of a Russian official, "functioning according to a will which is not his own, lives as much as the movement of a clock. . . . One asks oneself what [such men] can do with their excess of thought and you feel uncomfortable at the idea of the force that had to be exerted against intelligent beings to succeed in making them only things."

Whether describing a building or a social institution, Custine never lost sight of, for him, the key question: what was its effect upon the minds of men? For Custine, man was above all a thinking, conscious being: not even despotism could negate that. Without understanding the thoughts of the population, you could understand nothing about Russia, and its future would remain inexplicable to you. But, on the basis of his understanding of the Russian character, Custine could prophesy that within two or three generations a violent cataclysm would occur that would spell not liberation but a renewed and more terrible form of despotism, for men with souls molded by czarism would have no vocation for freedom. The turmoil that Russia has experienced in escaping the legacy of communism would not have surprised Custine in the least, nor would he have expected a happy outcome at any time in the foreseeable future.

Another traveler, Custine's younger, but more eminent and scholarly, contemporary, Alexis de Tocqueville, took with him the same methods and the same assumption that no society can be understood without reference to the psychology of its members, and he famously produced classic accounts both of America and Britain. He, too, analyzed societies by reference to the interplay between political arrangements and the minds of men. These two men shared not just similar assumptions but a similar background. Both were scions of the French aristocracy, with reason to dislike the excesses of the French Revolution and its rhetoric. Both had a visceral mistrust of democratic government, but both came—with qualifications—to admire it, Tocqueville because of the positive example of the United States, Custine because of the negative example of Russia. (It is even possible that Custine chose Russia as a destination because the first volume of Tocqueville's *Democracy in America*, published in 1835 to immediate acclaim, stated that Russia seemed destined, along with the United States, to hold sway over half the world.) Before visiting America, Tocqueville, trained as a lawyer, had served as a judge; after his return, he served in France's Chamber of Deputies and became, briefly, foreign minister in 1849.


CULVER PICTURES

Alexis de Tocqueville

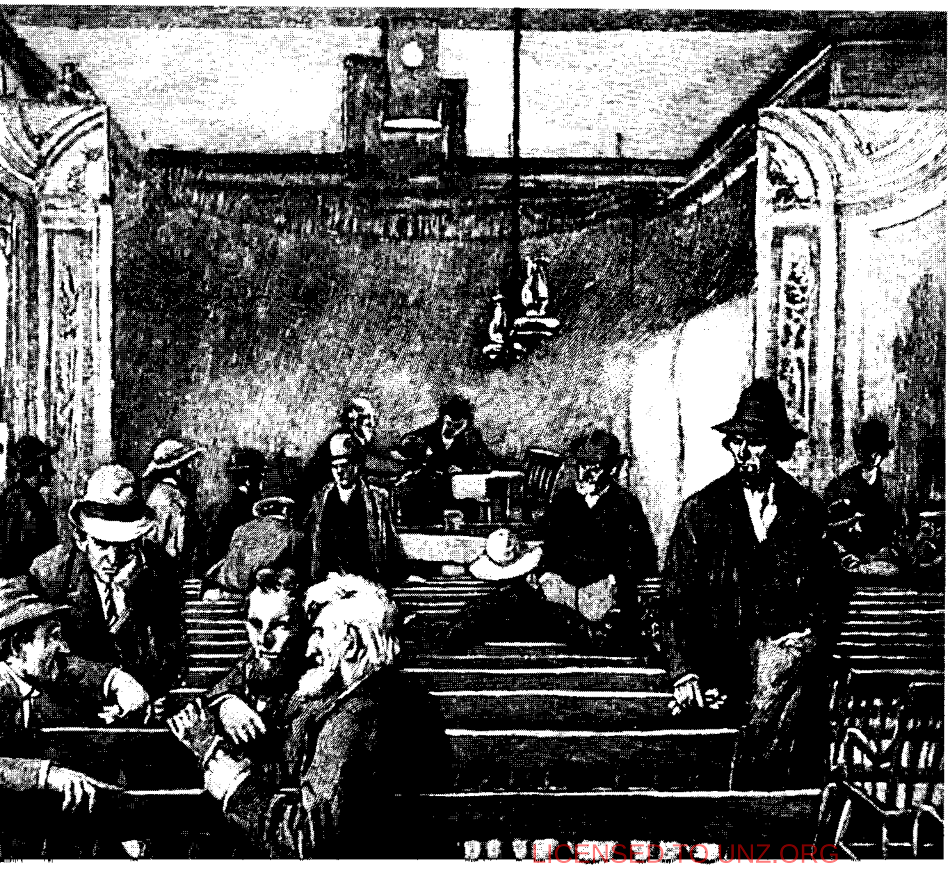
Where Custine had studied the effect of despotism upon the human psyche and character, Tocqueville studied the effect of political liberty and legal equality upon them. Liberty had certain disadvantages, he thought, but the price was worth paying (the mirror image of Custine's conclusion that any good that the czarist regime did was bought at far too high a cost). In many respects, freedom's consequences were the opposite of despotism's. Men became honest when they had to deal with one another on the basis of legal equality, rather than sly, underhanded, and dissimulating, as they were under despotism. When a man's reputation depended more upon his activity than upon his position in a social hierarchy, conferred at birth, as in Russia, he was inclined to virtue without any obvious external compulsion. In addition, the comparative absence of governmental interference in his life rendered him energetic, enterprising, and thoughtful in pursuit of his own economic interests.

For that reason, a society of free men could organize itself to produce impressive public works without the coercion applied by Peter the Great and his successors—provided only that the public works were of genuine public utility and not merely the whim of one man. The interests of the individual and those of the political power—which is to say, the chosen representatives of the community at large—were united by a thousand small bonds.

But it was from this initial identity of interest that a potential danger arose. By small degrees—though this was only a possibility, not an inevitability—men might cede their independence to a government that represented them, that was believed to have their interests at heart, and that was (after all) composed of men very like themselves. In a passage that united prophetic with psychological insight, Tocqueville (who rightly foresaw that democratic government was destined to spread widely, if not throughout the entire world) described the future soul of man under a seemingly benevolent and democratic government that willingly labored for the happiness of the people "but chose to be the sole agent and only arbiter of that happiness." Such a government would "supply [the people] with their necessities, facilitate their pleasures, manage their principal concerns." What would remain, but to "spare them all the care of thinking and all the trouble of living"? When this came to pass, "the will of man will not be shattered, but softened, bent and guided." Men will not be forced to act, but prevented from acting; the government will not destroy, but prevent a full human existence. It will not tyrannize, but "enervate, extinguish and stupefy a people."

And this is exactly the condition to which a part of the population had been reduced under irreproachably democratic governments. Living in subsidized housing, its children educated free of charge and its medical bills paid (all for its own good, of course), with an income sufficient to guarantee both enough food and perpetual entertainment in the form of television, all its "principal concerns" are "managed," just as Tocqueville said they would be, and it is thus spared "the care of thinking and all the trouble of living." This is the welfare-dependent population among which I work: so enervated and stupefied that it cannot cook for itself even when it has nothing else to do but eats only pre-cooked food, and so enervated and stupefied that when trash appears in its own front yard, it cannot summon the initiative to clear it away by itself but—if it notices the mess at all—summons officialdom to do so on its behalf.

If I took Custine with me as a guide each time I traveled in the communist world, I could, with equal reason, take a short essay by Tocqueville on the subject of pauperism with me



CULVER PICTURES

Tocqueville perceived that free institutions, like this New England town meeting, promoted honesty, virtue, and enterprise.

each time I go to work in my hospital in the slums—which is, in a certain sense, to travel abroad. For I work among people who are in effect paupers: and Tocqueville understood, as few modern writers do, that pauperism is above all a psychological, not an economic, condition. And he saw in the English system of social assistance to the poor the same insidious threat to men's independence of character that he saw, only as a potentiality, in American democracy.

Tocqueville's *Memoir on Pauperism* was published in 1835, shortly after the first volume of *Democracy in America*. He had visited England, then by far the most prosperous country in Europe, if not the world. But there was a seeming paradox: a sixth of the population of England were—or had made themselves—paupers, completely reliant upon handouts from public charity. This was a proportion greater than in any other country in Europe, even in such incomparably poorer ones as Spain and Portugal. In the midst of what was then the utmost prosperity, Tocqueville found not only physical squalor but moral and emotional degradation.

Tocqueville surmised that the reason lay in the fact that England was then the one country in Europe that provided public assistance, as of right, to people who lacked the means to support themselves. The reign of Elizabeth I had conferred this right, as a way of dealing with the epidemic of begging that followed the dissolution of the monasteries. In the past, they had provided essentially private and voluntary charity to the poor, on a discretionary basis.

At first sight, remarked Tocqueville, the replacement of discretionary charity by public assistance granted as of right appeared deeply humane. What, he asked, could be nobler than the determination to ensure than no one went hungry? What could be more fair and reasonable than that the prosperous should give up a little for the welfare of those with nothing?

If men were not thinking beings who react to their circumstances by taking what they conceive to be advantage of them, this system doubtless would have had the desired effect. But instead, Tocqueville observed the voluntary idleness to which the seemingly humane system of entitlement gave rise—how it destroyed both kindness and gratitude (for what is given bureaucratically is received with resentment), how it encouraged fraud and dissimulation of various kinds, and above all how it dissolved the social bonds that protected people from the worst effects of poverty. The provision of relief by entitlement atomized society: Tocqueville cited the case of a man who, though financially able to do so, refused to support his daughter-in-law and grandchild after his son's death, precisely because public support was available to them as of right. Having paid his taxes, why should he do more? The provision of charity as of right destroyed the motive for human solidarity in the face of hardship, and undermined both ties of personal affection and the sense of duty toward close relations. Intended as an expression of social responsibility, it liberated selfishness. As Tocqueville grasped, the shift of responsibility from individual to collectivity had an enormous and deleterious effect on how people thought and felt, and therefore upon society as a whole. Where this shift had taken place, economic progress was perfectly compatible with squalor of every kind, and general wealth with degradation.

It wasn't until the end of the twentieth century, with its unprecedented prosperity and its militant moral relativism, that Tocqueville's prescience became clear. Until very recently in human history, sheer physical poverty has seemed much more a menace than any attempt to relieve it could ever be. But none of the social pathology of a modern British or American slum would have surprised Tocqueville, who foresaw it all 165 years ago.

Custine and Tocqueville analyzed the subtle interplay of culture, political regime, and human character in two very different—one might almost say, opposite—societies and came to similar political conclusions. Underlying their analysis was a shared understanding: that societies alien to them were comprehensible because there existed a fundamental human nature, in which they themselves shared, and that some political and social arrangements nurture all the excellences of which human nature is capable, while others might stunt and deform it. They did not aspire to the pseudo-scientific detachment that is the hallmark of so much modern social commentary: and they will therefore continue to be read long after the tabulators and statistical correlators are forgotten.

Oh, to England

Policemen in Wonderland

Theodore Dalrymple

The long march through the institutions—by which radical intellectuals have sought to remake society surreptitiously, without resort to the barricades—has succeeded so completely in Britain that it sometimes seems that a Nietzschean transvaluation of all values has taken place. The police are a prime case in point. Their leaders are now so desperate for the approval of liberal critics that they often seem more focused on public relations than on crime prevention and detection—on protecting their reputation rather than protecting the public. As a result, Britain is suffering a crime wave that is affecting areas hitherto spared, such as the West End of London—street robbery in the capital having increased by a fifth in the last 12 months alone.

For fear of criticism by liberals, the actions of the police now often are the mirror image of what they should be—and of what they have been in New York and other American cities, with dramatic reductions in the crime rate as a result. Yet however imbued with, or affected by, liberal values the police become, liberals will never accept them as full members of the human race or cease their carping, because it is, at base, the mere existence of the police that offends the liberal conscience, not any of their particular acts. For the permanent necessity of a police force suggests that the default setting of humanity is not to virtue and social harmony: that externally applied pressure to conform to decent behavior is a necessary component of any civilized society. And the admission that this is so (surely obvious to anyone not still in thrall to adolescent utopian dreams) undermines the very suppositions upon which the modern liberal desire to remove all external restraints upon behavior rests. We hate nothing so much as the living refutation of our cherished ideas.

Of course, one must not exaggerate the degree to which the police have been undermined: one's perception depends in part upon which end of the telescope one looks down. Seen from prison, for example, the police must still be doing a lot of their traditional work: why else are so many malefactors behind bars? Every day a new harvest, undiminished in size, comes in through the gates. Rare indeed are the cases of the wrongfully imprisoned—though the press trumpets the few that come to light in order to destroy public confidence in "the system." By means of the old rhetorical devices of *suppressio veri* and *suggestio falsi*, the predators on society appear its victims, and sympathy for the criminal becomes, in elite orthodoxy, the touchstone of a tender heart. But of the guilt of the vast majority of prisoners there can be no doubt, and it is the police who have been key in bringing them to justice.

But seen down the other end of the telescope, from the world outside prison, things look very different. Here it is not the wrongfully imprisoned but the wrongfully free who give rise to concern. For every person wrongfully imprisoned, there are literally hundreds who manifestly deserve to lose their liberty. Not only is this also an injustice (I have never understood the liberal assumption that if there were justice in the world, there would be fewer rather than more prisoners), but it makes life a torment for millions of people.

For those who live in the world of impunity—that is to say, the poorer half of the population—the police are not merely impotent but positively unwilling to do anything to rectify the situation. To err is human, to forgive divine: and the police have now taken up the role of divinities, making allowances for wrongdoers instead of apprehending them. The police forgive them, for they know not what they do.

Working in a hospital in an area where the police take a purely abstract, sociological view of crime—it is the natural consequence of deprivation and therefore neither blameworthy nor reducible by means of the application of the law—I quite often catch glimpses of police reluctance to deal with criminal offenses, even when committed in the presence of several reliable witnesses. The allowances they make for the offender (he had a bad upbringing, he once saw a psychiatrist and must therefore be psychologically disturbed, he is unemployed, he is an addict) reinforce their reluctance to undertake the

paperwork nowadays consequent upon any arrest—paperwork imposed upon them, of course, by the attempt to answer the continual criticisms of the civil libertarians. The net effect has been to imprison the poor and old in their houses after dark and sometimes before it as well.

For example, a man in his late twenties was admitted to our ward one day, having taken an overdose of illegally obtained drugs. He was also an habitual inhaler of butane gas. I had known him a long time and suspected him of having stolen a piece of equipment from my office. He had a substantial criminal record—burglaries and assaults—and I knew him also from the prison.

He asked one of the senior physicians for a prescription of drugs that he wanted merely for pleasure. The physician quite properly refused, whereupon the patient became angry and abusive. He refused to calm down, and when he pinned the physician against the wall, the nurses called the police.

Having extricated the physician from his immediate predicament, the police considered their task ended. There was, in their view, no point in arresting a man so clearly out of his head as the patient—a man who knew not what he did and was therefore not answerable for his crime. What admirable compassion, and what a saving of time on paperwork, so that they might spread their compassion elsewhere!

Four weeks later, the same young man broke into the house of an aged priest at night and, on being interrupted by him, battered him brutally to death. On this occasion, of course, he was arrested, butane gas or no butane gas.

I know of many other, lesser instances of police refusal to do anything about clear infringements of the law, in cases where the evidence is undoubted and where the infringement is an obvious sign of things to come.

A prostitute was a patient in our ward, and her pimp arrived to visit her. He was a man of evil appearance and demeanor: gold front teeth glistened menacingly in his mouth; his shaven head bore the marks of more than one machete attack (or defense). In the past he had broken his prostitute's jaw and ribs; he had a long criminal record. He demanded of a nurse to know the diagnosis, treatment, and expected period of hospitalization of the patient; when the nurse refused to tell him on the grounds that the information was confidential, he backed her into a corner (in the presence of another nurse) and threatened to follow her home and set fire to her house, with her, her husband, and her children in it.

The police came and escorted the pimp out but otherwise took no action, though what he had said and how he had behaved were clearly criminal offenses. The nurse did not return to work and has not been seen since on our ward.

To take one more example: a young man arrived in our emergency department having taken a small overdose. As is usually the case in such incidents, he had just had a violent quarrel with his girlfriend. (The purpose of the subsequent overdose is threefold: first, to induce the girlfriend to call an ambulance rather than the police; second, to warn her not to leave him because he might kill himself, "and then you'll be sorry, you bitch"; and third, to present himself as the victim of his own behavior—and therefore not responsible for it—and in need of treatment.) His girlfriend arrived shortly afterward with the things that he would need for a hospital stay. He at once resumed the quarrel and began to beat her again, this time in front of the nurses. They called the police, who claimed that, because the assault had been so minor—the girlfriend was not yet badly injured—there was nothing they could do, especially as they were busy elsewhere. The police evidently did not care to speculate what this man must have been capable of in private if he behaved in this fashion in a public place in front of several reliable witnesses. And the effect of this example on those who saw it—particularly young men—must have been profound.

A young man went to a local family doctor and demanded addictive drugs for which there was no medical indication. The doctor—rather unusually in the circumstances—refused, and the patient became abusive and threatening. The doctor's receptionist called the police, who took the young man into custody. But instead of taking him to the police station and charging him, they brought him to the emergency department of our hospital, where they left him, as if they were merely a delivery service.

Once again he demanded drugs, and once again, on refusal, he became abusive and threatening. The nurses called the hospital security staff; but when, instead of leaving the hospital as they requested, he took a swing at one of them, the police were again called. This time they took him out and dumped him in the street around the corner.

I was myself the victim of a minor assault, significant because it was quite likely the harbinger of a future murder. It took place in the prison in which I work. A young prisoner asked me when he would receive his ration of tobacco, to which I replied, truthfully, that I did not know. He thereupon reached out of the hatch in his cell door and tried to hit me, in the process scratching my face slightly and grabbing my glasses, which he then broke into pieces and threw out of his window.

He had been imprisoned for assault on the police, who had been called after he had assaulted his girlfriend. Since his arrival in the prison, he had assaulted almost everyone with whom he had come into contact. He had attacked a warden so badly that he couldn't come to work for six weeks afterward. The warden informed the police of that assault, but they told him that assaults by prisoners on wardens were only to be expected and therefore they could—or rather would—do nothing. Naturally, assaults on the police themselves, however minor, are a completely different matter.

My attempts to have the prisoner charged with his assault on me came to naught. I was not really injured, and I have suffered no psychological ills from the assault. My motive in trying to have the prisoner charged and further imprisoned was to protect the public, for however inadequate a period, from a very dangerous man. But the police told me that they considered it not in the public interest to bring a prosecution, for clearly the offender was psychologically disturbed. In vain did I point out that it was therefore even more imperative that charges be brought. How could it be in the public interest for such a man to be walking the streets? And who would suffer? The poor, of course, among whom he moved.

This young man is now at liberty: but it is not at all unlikely that his liberty is someone else's imprisonment by terror. I can only hope he will be rearrested before he kills, but I wouldn't bet on it.

No doubt it might be objected that these are just anecdotes: but scores of anecdotes of the same kind become a pattern. Besides, my experience is precisely that of all my patients, many thousands of them. One told me, for example, that her former boyfriend had broken into her home no fewer than ten times, with the drunken intention, sometimes carried out, of committing violence against her, and that on each occasion she had called the police. On each occasion they had simply given him a ride back to his own lodgings, thus acting as a free taxi service. The moral of the story seems to be that if you should find yourself without money in a British city and in need of a lift home, you should assault someone. It is quicker than walking.

But only if you already have a criminal record, are drug-addicted, drunk, or in some other way disreputable or reprehensible. For the police, so sluggish in dealing with real wrongdoing, are like avenging angels when it comes to the merest whiff of suspicion that respectable persons may have been up to no good. Then they pursue matters to the uttermost ends of the earth, like those breeds of dogs that, once they have sunk their teeth into flesh, never let go. In this way, the police hope to demonstrate to the liberals that they are not prejudiced against the poor, as they are so often accused of being.

Recently, for example, a man was admitted to our hospital having taken an overdose of painkillers while he was very drunk. The hospital staff knew the patient well: he had been abusive to most of them at some time in his career as a recurrent patient. He had a very long criminal record. During a recent hospital admission, the nurses had called the police because he had assaulted a patient in the bed opposite his. As usual, the police did nothing, because, after all, he was a patient and therefore a suffering human being, and no decent person could arrest, much less charge, a sufferer. (The police, of course, didn't allow the source of his suffering to influence their indiscriminate compassion.)

During his last admission to my ward, he took himself to the lavatory to smoke and then refused to come out again. Since he needed an antidote to the pills he had taken and might otherwise die, the nurses tried to persuade him to return to his bed. He refused in no uncertain terms, and the nurses called the security staff. They hauled him, struggling, back to his bed, where the treatment was given, and his life was duly saved.

Two weeks later, this same man took himself off to the local police station to accuse the security staff of assault. The police, of course, knew this man to be a recidivist criminal, a drunk, a liar, a general nuisance, and inclined to violence into the bargain: but they took his complaints seriously. Having refused to act when he assaulted the patient opposite him, they now interviewed the security men, not once but repeatedly, under caution that anything they said might be used in evidence against them. They interviewed other hospital staff to ferret out any evidence that might lead to the prosecution of the security men. As of this moment, the investigations continue, despite the fact that the only evidence is the man's word, and that in the meantime he has committed suicide while drunk, so that he can no longer be called as a witness. The police have hinted that they might still arrest the security staff.

The police have told the hospital authorities that they are duty bound to take every complaint seriously and investigate it thoroughly, but this they must know to be an unscrupulous and stupid lie, for in the ten years that I have worked in the hospital they have never taken any complaint by a member of the staff seriously. Instead, they take the part of a drunken psychopath and ignore the safety of the hospital staff—to demonstrate that they have no social prejudices that might offend liberal opinion. As a result, the security staff are now understandably reluctant to lay a hand upon an obstreperous or violent patient, leaving the rest of the hospital staff completely unprotected at a time when assaults upon them are increasing.

This case is no isolated instance of the police pursuing the obviously innocent and respectable. I will relay just one more, out of many. A patient of mine, the son of Indian immigrants, came home from university, where he was studying physics, and helped his parents in their family business, a small convenience store. The young man was of unblemished character and pleasing personality. He was ambitious and had an excellent future.

Three white youths came into the shop while he was serving and demanded to buy some beer. They appeared to him to be underage, and he asked for identification. They began to abuse him with the racial slurs all Indian shopkeepers suffer at some point from modern Britain's new legions of ill-educated, uncouth, and depraved young men. Then one of them took some beer from a refrigerator, and the three of them walked out, laughing.

Perhaps foolishly, my patient followed them and demanded the return of the beer. The three set upon him, badly bruising him; but, in the process, one of them swung a punch at him and missed, his arm going through the store window. (A surprising proportion of British criminals have had the tendons of their forearms and wrists severed by plate-glass injuries: an "occupational hazard," as criminals openly call such injuries.) The youth was badly hurt and required a six-hour operation to repair his arm. As soon as the injury occurred, the fight stopped, and—with considerable forbearance—my patient invited the injured youth into the shop, where he called an ambulance and bound up the injury as best he could while waiting.

Not surprisingly, the police were soon involved, and a week later my patient was astonished to be arrested and charged with grievous bodily harm, a serious crime potentially carrying a long prison sentence. The three youths, all with long records of serious wrongdoing, had claimed that, for no reason at all, this hitherto law-abiding and even rather timid man had suddenly followed them out of the shop and set upon all three of them, in the process injuring one of them severely. The police treated this preposterous story in all seriousness, as if it might have been true. No person of minimal intelligence would have given it a moment's credence, yet my patient was being pursued through the courts with all rigor possible: and in the meantime, his life had been wrecked: he was a shell of his former self, he has twice tried to kill himself, and the law's delay is such that he might try again (and succeed) before the case is resolved, probably by the judge throwing it out as being utterly unworthy of his court.

It is not racism that explains this extraordinary episode, but on the contrary, another intrusion of liberal ideology into policing. The three youths, being vicious, dishonest, at best semiliterate, and probably unemployable, needed protection from the ill will and prejudice of the respectable, who were responsible for their deprivation because of the unjust structure of the society from which they, the respectable, had so unfairly benefited. By taking the obviously bogus and conspiratorial complaints of these three youths seriously, the police were demonstrating to a liberal constituency that they did not automatically side with the respectable against those whom Labour Party bigwigs call, as they cant their way through their next bottle of champagne, the socially excluded.

The national priorities of the police can be seen in two revealing facts. The first is that the police are considering using an expensive hi-tech satellite tracking system to catch speeding drivers. The second is the fate of the chief of police of the northern city of Middlesborough.

I do not praise my fellow countrymen lightly, but there is one aspect of their conduct that is markedly superior to that of other nations: their driving habits. They drive, on the whole, with reasonable consideration for others. Why their good manners should be confined to the road I do not know, but it is so. For years, our road accident rate has been by far the lowest of any country with comparable levels of traffic; our road fatality rate is far lower than France's, Germany's, or Italy's.

One might have supposed that the police would count themselves lucky to have a nation of relative law-abiders as far as traffic regulations are concerned, allowing them to concentrate on more important matters. But no. With ever increasing officiousness, they set up cameras in our streets and concentrate their efforts on the least manifestation of speeding and other minor infringements of traffic regulations. The expensive satellite system is the next stage in the campaign.

At the same time, the chief constable of Middlesborough, a man called Ray Mallon, has been suspended from duty for the last 26 months. At first, his superiors alleged that he had made false expense-account claims, but it turned out that if anything he had underestimated the reimbursement he was owed. His enemies in the police hierarchy instituted a desperate search for evidence of other wrongdoing by him, so far without success. As he himself has said, he has been treated worse than any criminal.

Why this persecution? Simple: Mallon is a charismatic policeman dedicated to the proposition that the police force can reduce the level of crime, even with all the obstructions those who imagine they are well-meaning place in its path. Having brought about a startling reduction of crime in the town of Hartlepool—a feat that made him into a local hero—he was promoted to the larger town of Middlesborough. There he said he would resign if he had not reduced the crime rate by a fifth within 18 months. He did it in nine.

Mallon became the most famous policeman in the country. Clearly, he was the kind of leader who would not ask his men to do what he was not prepared to do himself. His drive was formidable and perhaps (even to someone like me) a little frightening. But he had brought an improvement in the quality of many people's lives, and no one has ever been able to show that he did it by illicit or foul means. He merely applied the law.

His suspension was the result of the terror he aroused, not in the public but in other senior police officers. If Mallon could do it in as tough a beat as Middlesborough—the very model of modern urban deprivation—why could the other chief constables not do it? He was setting a bad and dangerous example for them. If Ray Mallon were allowed to continue in his post, the general population would get the idea that a high crime rate was not an inevitable aspect of modern life or an act of God. Therefore he had to go, on any pretext that came to hand: and when he went, about a sixth of the population of Middlesborough signed a petition for his immediate reinstatement.

Looking down one end of the telescope, then, we see the police doing their job as they always have. Looking down the other, however, we see them subverting the purpose for which they were instituted, largely from fear of liberal criticism, which, as American readers well know, is impervious to fact. These liberals pride themselves on their tenderheartedness: but the warm glow it imparts to them comes at the expense of the poor, who as a practical consequence live in a torment of public and private disorder, which I have trembled to behold every day of the last ten years of my professional life.

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Letters

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Clueless in Seattle

To the editor:

Believe it or not, sometimes we read *City Journal* out here in podunk Seattle. I was amused at "What Seattle's Cops Should Have Done" (Soundings, Winter 2000), in which NYPD Chief Louis Anemone lectures us hick cops on five things that could have prevented the WTO riot.

Had we just met with the protesters beforehand to establish ground rules, he suggests, all would have been okay. We did. Of course, it was made more difficult when they deliberately organized themselves into cells that didn't know what other cells would be doing.

Next he says we should have deployed a sufficient number of police. The NYPD has 45,000 police officers. How safe would Times Square have been on New Years Eve with 1,200 cops, which is how many Seattle has, instead of 8,000 at one intersection and 12,000 more stationed nearby?

We should have established "frozen zones" in advance, he says. We're now under threat from the ACLU for doing just-this—in the middle of a riot! What works in New York doesn't necessarily work elsewhere.

Next, he says we should have used a mixture of foot, motorcycle, and mounted police to shunt protesters to side streets. We did. But the odds were still 40 to one.

Finally, we should have arrested those who vandalized places like Starbucks, so we wouldn't have had to call out the National Guard. In fact, a plain-clothes team arrested most of this group within minutes, and the rest later. By the way: the NYPD has over eight times more cops than Washington State has National Guardsmen.

The good news for Seattle is that we now have a city to recommend to the WTO for its next U.S. conference—New York. In the meantime, we'll stick to getting our advice from a police department that hasn't recently undergone a criminal scandal of international proportion.

Harv Ferguson
Assistant Chief, Investigations Bureau
Seattle, WA

Louis Anemone responds:

If amusement was all Chief Ferguson took from my article, I failed in my objective. I was hoping to generate thoughtful discussion on planning and tactics for disruptive urban events.

Prudent planning dictates that you hope for the best but prepare for the worst. When faced with the possibility of groups of demonstrators whose numbers might overwhelm police, who plan to be disruptive, and who thus pose a threat to public safety, law enforcement needs to be proactive. Authorities should mobilize *beforehand* additional personnel—reserve police officers or volunteers, surrounding local police departments, local and surrounding sheriff's deputies, and state police—to assist in policing the event. They should also mobilize city attorneys to obtain restraining orders and injunctions.

I'm struck by the naivete shown in the comment about protesters organizing into cells that didn't know what other cells would be doing. I find it extraordinary that all these different cells wound up at the same places at the same times.

The truly disturbing aspect of the chief's letter (putting aside its scurrilous name-calling) is its tone, which suggests that his department has learned nothing from this fiasco—that there's nothing *to* learn, in fact—and that, if faced with another such event, they'd use the same reactive methods all over again.

Be Prepared . . . for Lawsuits?

To the editor:

Heather Mac Donald's "Why the Boy Scouts Work" (Winter 2000) ignores a vital fact in the Boy Scouts of America's court loss in New Jersey: the Scouts accept charters from public schools and the military, yet claim to be "completely private." Private institutions can turn away those without the "right" sexual orientation or religious beliefs, but the public schools and other government entities that charter over 300,000 Scouts cannot so discriminate. If the BSA wants to spread their prejudices against people like me, they'll have to do it without the aid of my own government, which has no business running a youth group that rejects atheists.

Brian Westley
Via e-mail

Letters

To the editor:

I have just read Heather Mac Donald's excellent article on the Scouts and felt that I must offer congratulations. This is first-class journalism—it brought tears to my eyes! The text's impact was also greatly enhanced by the wonderful Norman Rockwell illustrations, which I had not seen before.

I hope that your article succeeds in rallying support for the Scouts in what appears to be a difficult time. *Robert Whelan*

Institute of Economic Affairs
London, England

Heather Mac Donald responds:

Mr. Westley should address his complaint to the schools and military bases that sponsor Scout troops, not to the Scouts themselves. Accepting government sponsorship does not convert the BSA into an agent of the government; if anything, the opposite is closer to the truth. Sponsoring organizations agree to abide by BSA values and rules; if the government rejects those values, it does not have to support any troops. The government has never conditioned its sponsorship of the Scouts on their changing their moral code. Having failed to impose conditions on its original chartering agreements, the government cannot now demand a revision to the Scout Oath and Law after the fact.

Engaging Reading

To the editor:

City Journal gets better and better. Its articles are timely and so well researched that I always learn something—even in fields where I am already informed.

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City Schools

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Letters

In the Winter 2000 issue, for instance, while Sol Stern confirmed my already low opinion of Jonathan Kozol, I was unaware of Kozol's telling Cuban infatuation. As a criminologist, I know the literature fairly well, but I learned a lot from the article on DNA testing by Howard Safir and Peter Reinharz.

But while "What's Wrong with the Kids?" by Kay S. Hymowitz—whose writings I admire—makes the important point that disengaged parents leave kids morally adrift, she goes a little too far. The landmark study behind Laurence Steinberg's *Beyond the Classroom* introduced the concepts of "disengaged" parents, teachers, and high-school students. These researchers estimate that 30 percent of parents are disengaged. Whether their figure is accurate or wildly off, it is unlikely that the overwhelming majority of parents—whatever their mistakes—are as disengaged as Hymowitz seems to imply. She might recall what someone said about Freud: it is almost impossible to exaggerate the importance of sex in human behavior, but somehow he managed to do it.

Jackson Toby
Rutgers University

Kay S. Hymowitz responds:

I'm puzzled that Professor Toby saw the parents depicted in my article as disengaged, and that he concluded I thought such parents were an "overwhelming majority." The parents in the documentary, *The Lost Children of Rockdale County*, defied social science's usual categories of parenting styles—including Steinberg's useful "disengaged." These parents seemed devoted to their children: planning family vacations, coaching Little League, and so on. But they did little to guide and shape their kids. They were not disengaged; they were morally clueless.

Whether 30 percent—or 80 percent, or 10 percent—of parents fit this category, I have no idea—and I suspect I never will. Social science has never shown much interest in these matters.

Catholic Charities Responds

To the editor:

"How Catholic Charities Lost Its Soul" in your Winter 2000 issue was disappointing. It missed the mark on the breadth and scope of our work, our adherence to Catholic Social Teaching, and the Catholic view on poverty.

Ten million people a year benefit from Catholic Charities services provided by 47,000 staff, 270,000 volunteers, and 9,000 board members at 1,400 member U.S. sites. Your writer made a one-day visit to only *six* CC programs out of 180 operated by our Brooklyn agency alone—only *one* of our 233 member agencies.

Catholic Charities embodies Catholic Social Teaching, in which popes and bishops have developed the implications of Christ's teachings for the modern world. We make no apology for proudly adhering to the magisterium's social teachings, which, as our bishops have said, "do not easily fit the categories of right or left, Democrat or Republican."

Recently, the U.S. bishops unanimously approved a statement praising CC's balanced work. *In All Things Charity: A Pastoral Challenge for the New Millennium* reiterates Church teaching on the purposes and roles of charitable work by Catholic agencies. The bishops quote John Paul II: "Our support and promotion of human life must be accomplished through . . . charity, which finds expression in personal witness, various forms of volunteer work, social activity, and political commitment."

The Holy Father has stated that "interventions of aid . . . must be made in a spirit of service and as a free gift, . . . without any ulterior motives of possible supervision or proselytism, which would suggest that charity is offered in part for political or economic goals." CC respects the faiths of all who come to us, offering them the gospel care of the Good Samaritan without proselytism.

In his most recent U.S. trip, the pope again urged Catholics to work to reduce racism and injustice in this country, situations your article calls an illusion.

The most unfortunate part of your article is its attack on the poor. *In All Things Charity* takes exception to blaming the poor for the conditions that oppress them, citing the pope's call "to abandon a mentality in which the poor—as individuals and as peoples—are considered . . . irksome intruders trying to consume what others have produced."

Poverty has many complex causes: individual (self-destructive behavior), familial (parental death, domestic violence), natural (disaster, disability), and systemic (racism, oppression, unemployment). American CC agencies have responded in many ways since 1727; we provide direct services to individuals and families (counseling, mental-health and substance-abuse treatment, job training); establish helping institutions (elderly group homes, day care centers, shelters for battered women and children); conduct family education programs; provide disaster-relief assistance; promote economic development; and encourage public policy changes (protection of abused and neglected children, minimum-wage increases, child-care subsidies).

My experience living and working among the poor for 25 years and visiting CC agencies nationwide is that most who come to us pray, go to church, and read holy writ. Like all of us, they need forgiveness and a closer relationship with God. They come hungry, needing affordable housing, and fleeing persecution, war, and domestic abuse. They need our love, better wages, safe day care, and help for disabled family members.

Jesus taught us to find Him among the hungry, homeless, sick, and imprisoned. Like Jesus, we think the poor are blessed. I urge your readers to do what 270,000 others do each year: volunteer in a CC program. Meet Christ in those who live in poverty. See for yourself. Your writer suggests we have lost our souls. We will keep our souls with Christ, the Holy Father, the bishops, and the poor.

Fred Kammer, SJ
President and CEO
Catholic Charities USA

Brian C. Anderson responds:

Father Kammer is correct, as I acknowledged in my article, that I have seen only a small fraction of CC's universe of social services. Nevertheless, I spoke at length with local CC agency officials across the country, with Kammer and several of his key Washington aides, and with a host of CC critics and supporters. I looked extensively at CC's history, too. What exactly did I miss? Have CC agencies *not* embraced the morally neutral welfare-state ethos or grown dependent on government funding as extensively as my article claims? Kammer presents no evidence that I overstated my case.

Kammer defends CC's adherence to Catholic social thought by selectively quoting Pope John Paul II and offering the witness of the U.S. bishops—with notable exceptions, a reflexively left-wing group for decades now. Tellingly, he ignores my substantive charges: that a) CC has abandoned subsidiarity—the key concept of Catholic social teaching, which entrusts problem solving to the institutional or social level closest to the problem, seeing family and neighbors as far more flexible and morally involved than politicians or lobbyists; and b) CC has downplayed the pope's warnings that an overreaching bureaucratic welfare state breeds dependency. Kammer doesn't respond to these charges because CC is wedded to the failed idea that welfare-state entitlements are the poor's best hope.

It's nonsense to claim that I call racism and injustice illusory. No this-worldly society will be free from such evils. But CC's sixties-vintage worldview wrongly

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deems America *thoroughly* racist—requiring top-down government programs like affirmative action as amelioration—and *deeply* unjust. This is a dangerous way to think about a political system that has brought opportunity and at least relative justice to more people than any other in human history.

Kammer defends the poor from my "attack." But I do not attack the poor, I attack CC's no-questions-asked approach to "service delivery," which does not help the poor; it in fact hurts them. Of the list of poverty's "complex" causes, only one—the behavioral—correlates with long-term poverty. To claim otherwise is to squirt ink and hide what is at stake: how best to help the underclass into the American mainstream. The best anti-poverty program is instruction in traditional moral values and ethical conduct for the dependent poor, as CC knew—before the sixties. Is Father Kammer really saying that stressing morality and personal responsibility to those with dysfunctional values is the same thing as proselytizing? If so, he is coming perilously close to contemporary liberalism's destructive view that all talk of morality is "imposing values."

More and more Americans trust "faith-based" institutions to help people turn their own lives around with a message of moral uplift. Nothing in Kammer's letter suggests that CC will soon take advantage of that trust.

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Contributors

Brian C. Anderson is senior editor of *City Journal* and the author of *Raymond Aron: The Recovery of the Political*. His writings have appeared in *First Things* and *The Public Interest*.

Thomas W. Carroll is president of CHANGE–NY. Previously, he served as Governor Pataki's deputy director of regulatory reform, and as a fiscal and economic researcher with Senate Majority Leader Joseph Bruno and the New York State Division of the Budget.

Theodore Dalrymple is a physician who regularly sees patients in an English prison. He is a contributing editor of *City Journal*, a columnist for the *London Spectator*, and a frequent contributor to the *Daily Telegraph*.

Howard Husock is director of case studies at Harvard's John F. Kennedy School of Government and a *City Journal* contributing editor. An Emmy Award–winning journalist, he is the author of *Repairing the Ladder: Towards a New Housing Policy Paradigm*. He has also written for the *Wall Street Journal* and *The Public Interest*.

Kay S. Hymowitz, a contributing editor of *City Journal*, is the author of *Ready or Not: Why Treating Children as Small Adults Endangers Their Future and Ours*. She has written for the *Wall Street Journal* and the *New York Times*.

Steven Kanfer, a contributing editor of *City Journal* and a former editor of *Time*, is the author of several novels and social histories. His new books are a biography of Groucho Marx and *The Essential Groucho*, to be published in May.

Heather Mac Donald is a contributing editor of *City Journal* and John M. Olin Fellow at the Manhattan Institute. Her articles have appeared in the *Wall Street Journal*, *The New Republic*, and the *New York Times*.

Peter Reinharz is chief of the Family Court division of the New York City Law Department, an adjunct professor at Fordham Law School, and a *City Journal* contributing editor. He is the author of *Killer Kids, Bad Law: Tales of the Juvenile Justice System*.

Roger Scruton is a writer and philosopher living in England. He is a contributing editor of *City Journal* and the editor of *The Salisbury Review*. His many books include *An Intelligent Person's Guide to Modern Culture*.

Sol Stern, a contributing editor of *City Journal*, has written for *Commentary* and the *Wall Street Journal* and has served as a policy analyst for the governments of New York City and New York State.

Our cover shows a detail from *The Boating Lake, Central Park, New York*, 1997, by Julian Barrow. Courtesy, The Bridgeman Art Library.

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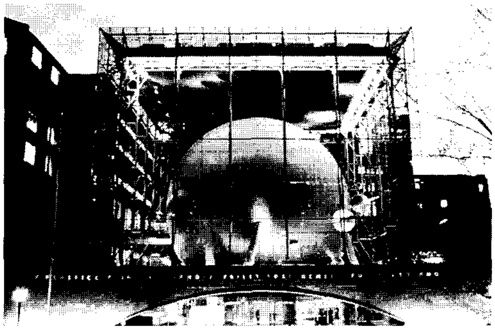
West Side Diarist

The Cosmic Cathedral

Myron Magnet

By now all New Yorkers know of that extraordinary millennial apparition on the West Side: the Rose Center for Earth and Space at the American Museum of Natural History. The new planetarium would be a wonder at any time, but it is all the more remarkable to see it arise in the year 2000, for it defies so much of the received wisdom of our age.



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For starters, its marvelous space show sweeps aside cherished intellectual orthodoxies. True, as we sink back in our commodious armchairs and watch the state-of-the-art Zeiss projector take us across the solar system, out of our galaxy, and into the vast cluster of galaxies of which we are a tiny part, we hear in the narration what sounds like trendy relativism about little us on our little world, a minute speck in a gigantic universe. How insignificant we are! Yet what comes across isn't insignificance at all. Instead, we can't help but marvel at the triumph of human intellect that has accomplished the science underlying this display: what a heroic labor of observation and interpretation has gone into producing this map of the visible universe; what ingenious feats of technology it must have taken to build the telescopes and satellites that allowed us to gather and reproduce all this information in such breathtaking verisimilitude.

The show briefly projects across the stars on the planetarium's dome the grid of coordinates used to locate an object's exact position in space: and momentarily the purely abstract, man-made construct by which human ingenuity has ordered and understood the world becomes as breathtakingly real as the world itself. It is another epiphany, making all of today's relativist chatter look appropriately foolish. There is a real world out there—real worlds upon real worlds, in fact—which we can know, if imperfectly. What we come away with is a sense both of the limits and the power of human reason: we feel both awe and confidence at once.

Remarkable too is the sheer ambition of the project—successfully realized. The planetarium is sure to become one of the city's don't-miss sights, drawing tourists and adorning postcards. That's due not only to the space show but equally to the building itself, a modern structure that even haters of modernism can admire. James Stewart Polshek's steel globe set in a sparkling glass cube is a landmark that evokes the music of the spheres, the astronomer's geometry, and the perspicuity of the universe as revealed by the planetarium.

For New York, the ambition to create a monument has long lay dormant. We have lived for generations, it seems, off the legacy of the robber barons and the other great early capitalists and speculators who gave us the Metropolitan Museum, the Public Library, Grand Central, the great midtown clubs, and our signature skyscrapers. When we have tried to create something new, as in Lincoln Center, the results have disappointed. But now, we ourselves have built something new and grand.

This is a great philanthropic achievement, a tribute to the vision and determination of such civic benefactors as Richard Gilder and the late Frederick P. Rose, who decided not just to spruce up but to tear down the old planetarium and put something better in its place, and who overcame New York's countless obstacles to getting anything built. They have shown that New York is still very much a living city, not a museum of twentieth-century capitalism.

Now Lincoln Center, prematurely aging, as modernist buildings do, needs a $1.5 billion makeover, its officials say. For that price, the Center's trustees could follow the planetarium's example: tear down the whole complex and build something grand and enduring. Were they to hire an architect like Quinlan Terry or Allan Greenberg to design it, New Yorkers yet unborn would have reason to bless their memory.

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